

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 CHARLESTON DIVISION

4 UNITED STATES OF AMERICA : VOLUME II
5 : :
6 vs. :
7 : :
8 DYLANN STORM ROOF : 2:15 - CR - 472

9
10 Trial continues in the above matter on Thursday,
11 December 8, 2016, commencing at 9:41 a.m., before the
12 Hon. Richard M. Gergel, in the United States Courthouse,
13 Courtroom VI, 85 Broad St., Charleston, South Carolina,
14 29401.

15 APPEARED ON BEHALF OF THE UNITED STATES:

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24

25 REPORTED BY DEBRA L. POTOCKI, RMR, RDR, CRR
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843/723-2208

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9:41:05AM 1 (Jury not present.)

9:41:24AM 2 THE COURT: I received this morning a motion for a
3 mistrial by the defense. Has the Government had a chance to
4 review that?

9:41:35AM 5 MR. RICHARDSON: We have had a chance to review it
6 briefly this morning and happy to respond to it now.

9:41:41AM 7 THE COURT: That would be welcome. Thank you, sir.

9:41:43AM 8 MR. RICHARDSON: Thank you, Your Honor.

9:41:45AM 9 The motion, as the Court is aware, in essence, reargues
10 the objection made after the fact to Miss Sanders' testimony
11 yesterday, and suggests a number of ways that it was
12 problematic. We do not believe it was at all problematic, as
13 an initial matter, and we think it is accurate and
14 appropriate.

9:42:06AM15 And a couple of things I think are worth pointing out in
16 that context. Unlike all the cases and references that the
17 defense makes, this was an eyewitness survivor, not a family
18 member who had no personal knowledge of the events, who is
19 describing what she felt, heard and saw in the room as this
20 vicious assault took place. And I won't read the entirety of
21 the provision --

9:42:34AM22 THE COURT: I've read it. It's a clear comment on
23 what she had just observed, not a comment on his -- him as a
24 person. That particular one during the Government's
25 questioning.

9:42:48AM 1 MR. RICHARDSON: Correct, Your Honor. And I think in
2 the context in which it was given, I think it was very clear
3 she's describing laying on the ground as the shots are ringing
4 out, and describing what she felt when she was there.

9:43:00AM 5 THE COURT: Seems to me it's relevant to malice, it's
6 relevant to a hate crime, it is relevant to the -- she makes a
7 reference of being in the house of God, she -- it's relevant
8 to the obstruction of religion.

9:43:13AM 9 MR. RICHARDSON: I think all of that is exactly
10 correct, Your Honor. We don't think this idea of pain and the
11 reference there is at all applicable in a case such as this
12 where you have an eyewitness. Miss Sanders, to be clear, she
13 is going to provide victim impact testimony.

9:43:29AM14 THE COURT: And it shouldn't be done in the guilt
15 phase, we all agree with that.

9:43:35AM16 MR. RICHARDSON: Absolutely. At an appropriate time,
17 she is going to do that. That was not this testimony. This
18 is testimony that's describing what occurred, what she
19 witnessed, what she felt. And we think that is entirely
20 appropriate in the context.

9:43:49AM21 I also think it's worth adding two additional points. I
22 think that resolves the issue, but just for the record's sake,
23 one, I think it's readily apparent from the defense motion
24 where they make reference, they made a strategic choice to not
25 object.

1 THE COURT: Well, let's go back, a couple things
2 about that. First of all, there's this statement that jumbled
3 within the motion is a fact that an event which occurred after
4 opening argument, out of court, which is apparently the
5 defendant's mother had a health issue which was before lunch,
6 and this was after lunch. And secondly, the claim that it was
7 because of the emotion of that response that led to the
8 recess, that was actually after another question, so that at
9 the moment, Mr. Richardson, you asked that question, the
10 defendant's objection was already untimely.

11 MR. RICHARDSON: Correct.

12 THE COURT: It was already untimely. And there's a
13 reason we have this rule. It's not a -- not like a casual,
14 you know, happenstance rule, it's very important for the
15 orderly function of trial; the Fourth Circuit has repeatedly
16 held that. You can't have this after-the-fact situation.
17 Now, I think Mr. Bruck wanted to avoid angering the jury.
18 Well, that's just -- I told the jury in the beginning, don't
19 get angry at people for making objections, that's part of --
20 I'm going to tell them that in the closing. This is the
21 lawyer's job. But you've got to do it timely.

Anything else? You said there was a third point.

423 MR. RICHARDSON: There is, Your Honor. We do think
424 that it's appropriate, and I can't recall off the top of my
425 head, we don't think this was a comment on what the sentence

1 ought to be.

9:45:42AM 2 THE COURT: Let me say this. I think the second
3 comment, which Mr. Bruck elicited, okay, he elicited that.
4 And he did it three times. I have the transcript, I re-read
5 it, I remembered it, I had it in my notes, I went back and
6 re-read it. He -- I mean, I'm going to give -- I have the
7 greatest respect for Mr. Bruck, I appointed him in this case,
8 I've known him for years, I still have a great respect for
9 him. But I have the impression when he did it, he was trying
10 to produce a mistrial, and I anticipated a motion this
11 morning. That's frankly how I saw it, he did not make a
12 timely objection, which was -- then it's waived. I think it's
13 close enough to a family comment that I need to instruct the
14 jury to disregard any family comments about the appropriate
15 punishment, that shouldn't be -- certainly not relevant in the
16 guilt phase, and not proper, you know, in the sentencing phase
17 as to the appropriate punishment.

9:46:43AM 18 MR. RICHARDSON: Your Honor, I think one thing. To
19 be very clear, she did not comment on what the appropriate
20 punishment was, although I think from implication --

9:46:50AM 21 THE COURT: You can read it that way. I don't think
22 she intended either, but I think as a protection, we have a
23 defendant on trial for his life, I think we bend everything in
24 a way to be as fair as possible. And I would just propose to,
25 number one, those three -- those questions and the responses,

1 I'm going to ask Mr. Bruck if he wants me to, I'll strike
2 them, but there is questions, and I'm not sure he wants to.

9:47:17AM 3 MR. RICHARDSON: Your Honor, I do not believe that
4 the Court can or should strike them at this point. He asked
5 the questions, he got the answers, he did not timely move to
6 strike them. I do not think the Court can, at this point,
7 after the fact, go back and strike those answers, which
8 themselves were entirely appropriate. I think that sends a
9 message to the jury that the Court has issued a ruling that's
10 not accurate or fair. I think Miss Sanders --

9:47:43AM11 THE COURT: Well, you know, family members should not
12 comment on the punishment, right?

9:47:50AM13 MR. RICHARDSON: And she was not commenting on the
14 punishment, is what she was describing is if he kills himself,
15 where he was going. That is also where he's going if he dies
16 of natural causes or the State does it.

9:48:03AM17 THE COURT: Yeah, you know, I just -- I think I
18 frankly, number one, I agree with you on all that, it's just
19 how do we -- what is the most cautious approach we can take.
20 And I think just simply just telling the jury to disregard any
21 comments from family members regarding appropriate punishment,
22 that is their decision to make.

9:48:28AM23 MR. RICHARDSON: Your Honor, we think that is -- we
24 do not think it's appropriate at this juncture to do that.

9:48:33AM25 THE COURT: I can do it in my closing charge.

1 MR. RICHARDSON: To single out this particular
2 testimony or this particular issue, we think it's part of a
3 charge, the Court ought to include the idea, which is
4 appropriate in every case, that the ultimate question, this is
5 true in every criminal case, every civil case, every death
6 penalty case, the ultimate question, that being guilt or not
7 guilt, death or not death, is a question for the jury, to be
8 decided on the facts, and it's not the opinion of the lawyers,
9 the judge, the victims, the defendant's family or anybody else
10 but theirs. We think that is an appropriate instruction.

11 THE COURT: By the way, that is going to be an
12 instruction. We already got -- the question is, do we need
13 another instruction now.

14 MR. RICHARDSON: We certainly do not think that we
15 do, particularly in light of what the Court is going to
16 provide that instruction. Had they made a timely objection,
17 had they asked for a curative instruction at that moment, then
18 that's one thing. But I think to redraw attention to that at
19 this point and suggest, by doing so, that there was something
20 improper when there was not anything improper by her
21 testimony, we think is not appropriate and not --

422 THE COURT: Let's look -- I hear what you're saying.
423 Let me just walk through this for a second. Let's take each
424 of these sentences and see if -- where we are in -- I had --
425 in light of what you've just argued. Mr. Bruck asked the

1 question, "Do you remember the man who did this saying
2 something about that he was only 21...?"

9:50:04AM 3 Now, first of all, that is not relevant to guilt phase,
4 that he's 21 years old is not relevant in the guilt phase.
5 "...and then talking about what he was going to do
6 afterwards?" Not relevant in the guilt phase. "Yes," she
7 answered. "Question: Could you tell me what he said"? He
8 said he was going to kill himself. And I was counting on
9 that. He's evil. There's no place on earth for him except
10 the pit of hell."

9:50:34AM11 Now, Mr. Bruck interprets that as a recommendation
12 regarding sentencing. I took it that she was making a
13 religious comment, not a sentencing comment. I don't think
14 that this is really Miss Sanders' world, this sentencing
15 world, it's the religious. That's how I took it when she said
16 it.

9:50:56AM17 Then Mr. Bruck persisted. "He said that he was 21? And
18 that he was going to kill himself when he was finished?
19 Answer: Send himself back to the pit of hell, I say." Again,
20 Mr. Bruck persisted. "Did -- he didn't say that though.
21 About hell. He just was going to kill himself? Answer:
22 That's where he would go, to hell."

9:51:32AM23 Now, you know, I just -- you know, you wouldn't let well
24 enough alone, Mr. Bruck, just kept persisting on this issue.

9:51:45AM25 MR. BRUCK: May I be heard?

9:51:50AM 1 THE COURT: You certainly can be heard, that's why
2 I'm going to turn to you right now. Yes, sir.

9:51:50AM 3 MR. BRUCK: First of all, if I had done this for
4 anything to provoke a mistrial, the Court's respect for me
5 would be misplaced. That is not what I was doing. I --

9:51:59AM 6 THE COURT: It looked that way, Mr. Bruck, to me.

9:52:02AM 7 MR. BRUCK: I was holding in my hand a verbatim
8 transcript of an interview with law enforcement and the
9 solicitor, with Mrs. Sanders, for whom I have the greatest
10 respect. This was two weeks after the event. And she simply
11 narrated that the defendant said, I am 21 years old, and when
12 I am finished, I am going to kill myself. That was a fact
13 that was relevant to his state of mind, it was relevant to
14 complete the setting.

9:52:29AM15 THE COURT: Why is it relevant to his guilt? Because
16 that's -- that goes to -- I mean, it's clearly mitigation
17 evidence, you and I would agree that's -- his age is
18 mitigation evidence.

9:52:40AM19 MR. BRUCK: It wasn't his age, it was his state of
20 mind about the fact that he --

9:52:44AM21 THE COURT: You asked about the age, that's a
22 mitigation fact.

9:52:48AM23 MR. BRUCK: The age was simply a lead in to a very
24 short statement.

9:52:51AM25 THE COURT: You were getting in mitigation evidence,

1 I'm sorry, that's what you were asking about, and then you
2 wanted to get in that he was planning to commit suicide.
3 That's not an element of the crime, it's not a defense to the
4 crime, the 33 counts he has. It's not relevant.

9:53:07AM 5 MR. BRUCK: It is relevant to his overall state of
6 mind. The prosecution --

9:53:12AM 7 THE COURT: State of mind about what? How -- you
8 know, that's looking like that evidence where you know we have
9 a very narrow window of psychological evidence when there is
10 not -- when the defendant is not insane, doesn't claim to be
11 insane and he is legally competent. It's a very narrow window
12 which this doesn't come remotely close to. It would not be
13 relevant in the case. You raised it. Of course I don't know
14 what's coming, Mr. Bruck, I haven't read these 302s, I don't
15 have access to that. And then you asked it three times. I
16 mean, I was looking at you, you saw me looking at you, I was a
17 little perplexed by it myself, frankly.

9:53:49AM18 MR. BRUCK: There was no unsaying the first one. I
19 was hoping that she would simply relate what he said.

9:53:54AM20 THE COURT: You know, if you had turned to me and
21 said objection, I would have given a curative instruction
22 right that moment. I would have done it. But then you
23 persisted. And you saw me looking at you, I looked at you
24 when you did that. You know that. And because I just
25 couldn't believe you were persisting in that. And that's

1 where I thought I'm going to see a mistrial motion. And I
2 came in this morning and my clerks told me, and I smiled
3 because I saw it coming.

9:54:24AM 4 MR. BRUCK: The motion would have been the same
5 whether it was said one, two, three times. That made very
6 little difference.

9:54:29AM 7 THE COURT: I don't think you can elicit this kind of
8 information, prompt the witness to say something, and then
9 complain that she answered the question.

9:54:41AM10 MR. BRUCK: She did not answer the question is the
11 problem. That is exactly the basis of our -- the question was
12 what did he say. And the answer was, he said that he was 21,
13 and when this was done, he was going to kill himself. Now, to
14 say that I elicited her opinion about his going to hell is
15 just not true.

9:55:03AM16 THE COURT: Let me tell you this. The second and
17 third one, you certainly did. And, you know, all of us have
18 cross-examined challenging witnesses, right? I mean, we've
19 all had this experience. And sometimes, you know, you get --
20 you open up doors you don't intend to open. That's always,
21 you know, a way you're trading. I understand what you're
22 saying, Mr. Bruck, but now the only question is, my plan
23 always was to tell the jury at sentencing that this issue is
24 not mine, it's not the lawyers', it's not the families',
25 it's -- either family -- sentencing is their decision. Is

1 there any more that I need to do now?

9:55:56AM 2 MR. BRUCK: Yes.

9:55:56AM 3 THE COURT: What do you want me to do now?

9:55:59AM 4 MR. BRUCK: I would like the Court to give exactly
5 the instruction that you proposed to give, and to -- prior to
6 Mr. Richardson's argument. I think the Court should instruct
7 the jury that to the extent that the witness --

9:56:13AM 8 THE COURT: Could be interpreted.

9:56:15AM 9 MR. BRUCK: -- could be interpreted as expressing an
10 opinion about what should happen to the defendant, or
11 expressing an opinion about the defendant. Booth versus
12 Maryland covers both of those. In Booth, and that's the part
13 that was not overruled --

9:56:29AM14 THE COURT: Let me do this. I did not think the
15 first comment which she made on direct was a comment on him,
16 it was his conduct, and she was describing his conduct. It
17 culminated a description of events. And she was describing
18 it, I thought, quite -- you know, quite reasonably under these
19 very difficult circumstances. So that one, I'm not worried
20 about. It's -- the only comment is, does one infer from the
21 information, from the responses you personally elicited, that
22 something else needs to be said. I tend to err on the side of
23 caution in these things, that's just my style of presiding in
24 a criminal case, is that I tend -- I don't think it's any
25 great harm to give an instruction which is in accord with the

1 law. I don't intend to comment on the evidence,
2 Mr. Richardson, I just think I should say I want to instruct
3 the jury that the sentencing decision is always a decision of
4 the jury, it's not the decision of anyone else, and anyone who
5 comments about it, they should disregard that because it's
6 their decision.

9:57:39AM 7 MR. BRUCK: We also request that the statements be
8 stricken as the Court --

9:57:44AM 9 THE COURT: You know, it's just kind of funny,
10 because you elicited it.

9:57:49AM11 MR. BRUCK: I understand that, Your Honor. I did not
12 elicit the initial response except in the technical sense that
13 it was an answer, an unforeseeable answer to a very simple
14 factual inquiry about what the defendant said, that she had
15 already, in a recorded statement, told law enforcement about.
16 I mean, that's what cross-examination is for, that was a very
17 reasonable inquiry, and no one could have predicted that the
18 gates of hell would open in response to that question.

9:58:15AM19 THE COURT: You asked it twice more. That's the --
20 that's the --

9:58:19AM21 MR. RICHARDSON: Your Honor?

9:58:20AM22 THE COURT: Yes.

9:58:20AM23 MR. RICHARDSON: I don't think it was all
24 unforeseeable, in light of her testimony that had come before.
25 I don't think that's a fair characterization.

9:58:27AM 1 Second, counsel had an obligation, if he believed there
2 was a problem, to object to the answer and move to strike in a
3 timely manner.

9:58:39AM 4 THE COURT: Mr. Richardson, there's always an issue
5 of plain error review, even on a waived objection, right? So
6 we want to --

9:58:47AM 7 MR. RICHARDSON: I agree. That's the third point.
8 It's not error, Your Honor, because she is not commenting on
9 what the appropriate sentence is, she is saying, as I
10 indicated before, no matter when or how he dies, that is where
11 he is going.

9:59:01AM12 THE COURT: Yeah.

9:59:02AM13 MR. RICHARDSON: That's a different point than a
14 suggestion of instructing this jury what verdict it should
15 reach.

9:59:08AM16 MR. BRUCK: If I may?

9:59:10AM17 THE COURT: Sure.

9:59:11AM18 MR. BRUCK: One other thing I'd like to -- I mean,
19 this may recur, Your Honor, and I -- I mean, it's not going to
20 be recurring exactly the same way.

9:59:21AM21 THE COURT: I would urge you not to ask questions
22 that cause it to recur yourself.

9:59:25AM23 MR. BRUCK: All I'm saying --

9:59:26AM24 THE COURT: Mr. Richardson is aware of the problem,
25 we're all aware of it, this is a very emotionally fraught

1 situation. One of the important things is for all of us to
2 remain calm, because we have enough emotion and tragedy in
3 this case for everyone. Right?

9:59:41AM 4 MR. BRUCK: That gets me to my point, Your Honor.
5 And I mean, it was the very admiration that I personally, and
6 I think by the time she was done, everyone in this courtroom
7 feels for Mrs. Sanders, that made this such a difficult
8 problem. This witness was an inspirational figure yesterday
9 and has been for the entire time since this awful event befell
10 this community and befell her town. And under those
11 circumstances, we have to rely on the Court in the end to
12 assure the fairness of the proceedings. Yes, I could have
13 responded in a lawyerly fashion.

10:00:28AM14 THE COURT: You -- Let me --

10:00:31AM15 MR. BRUCK: I should have, but --

10:00:32AM16 THE COURT: I can't change the rules. You know, one
17 of the things I keep saying to y'all is just because it's a
18 capital case, we don't change our rules. Rule 103 is our
19 rule. Timely objections. You have got to make it. All of us
20 sitting in the pit where you guys are now, and I did for over
21 a hundred trials, you have to sit there and you have to make a
22 judgment. And sometimes you don't make the objection because
23 you worry about jury reaction. It's just one of the things
24 you do. But we can't change that rule. It is unmanageable to
25 not deal with it at the time.

10:01:09AM 1 MR. BRUCK: I'm not --

10:01:10AM 2 THE COURT: And I thought it was a strategic call on
3 your part. And I can't have you second guessing your strategy
4 and coming back later and then -- it makes the trial
5 unmanageable.

10:01:20AM 6 MR. BRUCK: I need to be able to finish, if I may.

10:01:23AM 7 THE COURT: You may, sir.

10:01:24AM 8 MR. BRUCK: Thank you.

10:01:26AM 9 I'm not asking the rules to be changed. Part of our
10 motion asks for prospective relief. I don't know that
11 anything like this will happen again, but as the Court has
12 often remarked, Your Honor is the only participant in this
13 trial who does not have a side. And that gives you an ability
14 to intervene in an emotionally fraught situation without harm
15 to anyone, including to the Court. And I am simply -- I am
16 not asking you to repeal the rules, I am not asking you to
17 give me any special dispensation. I am asking you to
18 acknowledge the reality of the situation we were in, and may
19 be in again, and if that situation should recur, I am asking
20 the Court to take sua sponte action without the necessity of
21 our having to object. I'm not asking you to fashion a rule,
22 I'm not asking you to tell me now that you're going to do
23 that, or to do it or to say anything that I can rely on.

10:02:32AM24 Your Honor, this courthouse is named for Judge Waring,
25 largely due to Your Honor's efforts. We revered Judge Waring

1 and revered his memory, not because he did right but because
2 he did right when it was hard. What I am asking you is hard,
3 but we think that it is right, and we are asking you to take
4 an active role in ensuring the fairness of these very
5 challenging and fraught proceedings.

10:03:07AM 6 THE COURT: See, Mr. Bruck, here's one of the sort of
7 complicated issues and why the courts do not traditionally do
8 this. You may have your own strategic reason you don't want
9 to object. You may want a piece of evidence in. I don't know
10 that. And people make those strategic calls all the time.
11 And if I step in, I'm stepping out of my role as the neutral
12 presider, and I may be inadvertently injuring your case by
13 doing that, because I think you should object about some
14 evidence. I don't do that, because I appointed what I
15 regarded as one of the top lawyers in America in this field to
16 handle this client, represent his client. I can't do that for
17 you. I can't be that person, because I don't know what's
18 going on regarding your strategy. So I respectfully decline
19 to assume this role to sort of be the back-up to the defense.
20 That's not my role to do that.

10:04:12AM21 And I was -- you know, so let me just sort of review where
22 I think we are. We need to step back, because we have a jury
23 waiting and we need to proceed.

10:04:21AM24 I find both objections untimely, and that alone will be
25 the basis in which to deny them. If the first objection

1 otherwise had been timely raised, I would have denied it as I
2 did at the time, because I thought it was a fair comment on
3 the conduct and not on the individual.

10:04:42AM 4 The second comment is -- it can be read, inferred, it's
5 not stated, that it might be a comment on sentencing. I
6 personally didn't think, listening to it in real time or in
7 reading it here, that it was an actually intended comment on
8 that.

10:05:02AM 9 But out of an abundance of caution, I'm prepared to tell
10 the jury, without referring to it, I'm not going to strike it,
11 because I have trouble striking that the defense counsel
12 elicited three times, but I will instruct the jury simply that
13 this -- I want to remind them that the sentencing decision is
14 always theirs, and it's not the responsibility of any of the
15 parties or any of the witnesses or the Court, it's theirs.
16 That's what I intend to do.

10:05:37AM17 MR. RICHARDSON: Can I just add one thing?

10:05:38AM18 THE COURT: You may. Welcome it.

10:05:40AM19 MR. RICHARDSON: Thank you. Instead of just
20 referencing the sentencing decision, we think it applies to
21 the guilt and sentencing decision. And just in that same vein
22 of not singling out any one group, we think, as the Court did
23 with respect to demeanor, referring it's not the judge, it's
24 not the attorneys, it's not any of the witnesses, it is yours.
25 Right? I don't think there's a reason to single out any one

1 group here. I think referring to the Court, to the attorneys
2 and to the witnesses is an appropriate way of handling that,
3 Your Honor.

10:06:17AM 4 MR. BRUCK: Your Honor, we don't think that making it
5 so general, the jury will not even realize what it is you're
6 talking about is going to be adequate. We also don't think it
7 is adequate to fail to strike the testimony.

10:06:29AM 8 THE COURT: Okay. I deny the motion to strike. I
9 think under the circumstances it's not necessary, and it's
10 untimely in any regard.

10:06:37AM11 Let me think for just a moment here.

10:07:37AM12 (Pause.)

10:07:48AM13 THE COURT: Very good. Bring in the jury.

10:08:43AM14 (Jury present.)

10:09:08AM15 THE COURT: Good morning. You look more rested than
16 yesterday. This is hard work, right? I'm going to first of
17 all, every one of you has been incredibly attentive and I want
18 to thank you for that. The parties thank you for that. And,
19 you know, this is a lot harder work than it looks. And I
20 think y'all have just undertaken this with such great
21 seriousness, and the Court greatly appreciates that.

10:09:35AM22 I want to make a brief instruction to y'all, if I might.
23 Ladies and gentlemen of the jury, I want to remind you that
24 the decisions this jury must make, whether the defendant is
25 guilty or not guilty, and if we come to a sentencing phase,

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1 the appropriate sentence, is always your decision to make. It
2 is not the decision of this Court or the attorneys or the
3 witnesses. It always will be yours.

10:10:02AM 4 With that, call your next witness.

10:10:04AM 5 MR. WILLIAMS: Thank you, Your Honor, Government
6 calls Dan English.

10:10:16AM 7 THE CLERK: State your full name for the record,
8 please.

10:10:17AM 9 A. Daniel English.

10:10:19AM10 DANIEL ENGLISH, a witness called by the Government, first
11 having been duly sworn, testified as follows:

DIRECT EXAMINATION

10:10:25AM12 BY MR. WILLIAMS:

10:10:36AM14 Q. Morning.

10:10:37AM15 A. Good morning.

10:10:38AM16 Q. Can you tell the jurors where you work?

10:10:40AM17 A. Charleston police department.

10:10:41AM18 Q. What do you do for the police department?

10:10:43AM19 A. Currently I'm the sergeant in the patrol division in West
20 Ashley.

10:10:47AM21 Q. How long have you worked in law enforcement?

10:10:50AM22 A. I've been with the City of Charleston for a little over
23 nine years.

10:10:53AM24 Q. Do you have any qualifications or education prior to
25 working at the police department that qualified you to work

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1 there?

10:11:00AM 2 A. I have a four-year degree from Francis Marion University
3 in Florence, South Carolina, and then I attended the South
4 Carolina Criminal Justice Academy.

10:11:08AM 5 Q. What did you study in college?

10:11:10AM 6 A. Political science.

10:11:11AM 7 Q. You say you started about nine years ago with the police
8 department?

10:11:14AM 9 A. Yes, sir, August 2007.

10:11:16AM10 Q. What was your first assignment with the police department?

10:11:19AM11 A. My first assignment was a patrolman in the downtown team.

10:11:23AM12 Q. How long did you do that?

10:11:25AM13 A. I was on patrol for four and a half years or so. I worked
14 downtown, and then I worked on another team in the suburban
15 area.

10:11:35AM16 Q. What type of responsibilities did you have?

10:11:38AM17 A. As a patrolman, you know, just you patrol your area, you
18 respond to calls, write reports, make arrests, things like
19 that.

10:11:46AM20 Q. When you say downtown, did that cover the area where
21 Mother Emanuel AME Church is?

10:11:51AM22 A. Yes, sir.

10:11:52AM23 Q. Are you familiar with that area?

10:11:53AM24 A. I am.

10:11:54AM25 Q. That's from patrolling it generally?

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10:11:57AM 1 A. Yes, sir.

10:11:58AM 2 Q. So after those years of working patrol, did you take on
3 any other responsibilities or have another job?

10:12:04AM 4 A. I did. So after doing the time on patrol, like I just
5 mentioned, I began moving into investigations division of our
6 police department. I started in the auto theft division, I
7 worked there, I moved over to the robbery division, I did that
8 for two and a half years, and then lastly I moved to the
9 violent crimes or homicide division, and now, like I said, I'm
10 back onto patrol as a supervisor.

10:12:29AM11 Q. When were you promoted to, first of all, detective?

10:12:33AM12 A. I would say 2012 I was into the detective division.

10:12:38AM13 Q. And when were you promoted to sergeant?

10:12:40AM14 A. I was just promoted to sergeant in September.

10:12:43AM15 Q. You spent several years as a detective?

10:12:45AM16 A. Yes, sir.

10:12:46AM17 Q. If you can, explain to the jury the role, or at least your
18 experience with using videotape or surveillance in your
19 investigations.

10:12:56AM20 A. Sure. In these days surveillance footage is paramount to
21 investigations now. It obviously helps you establish what
22 happened before, during, after a crime. So working cases from
23 any auto theft to homicide, like I told you I was in, you're
24 getting footage for everything you can. And it's useful in a
25 number of ways, from, you know, corroborating statements given

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1 to you from witnesses all the way to looking at the actions of
2 an actual crime.

10:13:28AM 3 Q. And explain the type of sources of video surveillance
4 you've used or have experience within investigations.

10:13:36AM 5 A. Sources as in the locations?

10:13:38AM 6 Q. Where does the video come from?

10:13:40AM 7 A. So typically, you know, you have the cameras in the
8 locations, and those cameras feed into surveillance systems.

9 And we will get surveillance systems, and some businesses
10 still have old VCR systems, some have high-tech cloud systems.
11 So it really kind of ranges. But that's typically what we
12 deal with, and just watching those footages and then
13 retrieving them later.

10:14:03AM14 Q. And the city itself maintains a type of footage, is that
15 right, meaning different cameras in the city?

10:14:09AM16 A. Yes, sir.

10:14:10AM17 Q. And is it part of your responsibility to know how to
18 retrieve footage from that system as well?

10:14:14AM19 A. Yes, sir, it is.

10:14:15AM20 Q. And I know you're maybe not an expert in the area, but
21 would you consider yourself experienced in gathering
22 surveillance footage for investigative purposes?

10:14:24AM23 A. Very.

10:14:25AM24 Q. So I want to ask you then about June 17th of 2015; were
25 you working that day?

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10:14:32AM 1 A. I was off that night.

10:14:34AM 2 Q. Do you recall getting brought into the shooting that
3 happened at the Emanuel AME Church?

10:14:40AM 4 A. Yes, sir.

10:14:41AM 5 Q. Tell the jury how you got involved.

10:14:42AM 6 A. So as I said, I was off sitting at my house on the couch.
7 My lieutenant at the time called in several detectives and
8 said, you know, this is what happened downtown, we've had a
9 shooting, we don't have a whole lot of information at this
10 time, we do need a bunch of detectives to respond.

10:15:02AM11 So I did. We had a muster location at 103 Calhoun Street,
12 and we were told to go there, so I did.

10:15:09AM13 Q. When you testified earlier that you were sort of familiar
14 with the downtown and the area of Emanuel, can you explain
15 sort of what that area is like?

10:15:20AM16 A. So the church basically sits right at the intersection of
17 Meeting and Calhoun Street. Obviously there's a park right
18 across from it, Marion Square. So it's a heavily traveled
19 area, there's a lot of foot traffic in that park. There's a
20 gas station right on the corner, so there's obviously vehicles
21 coming in and out. Across the street is a hotel. So again,
22 it's just kind of a tourism section of town, and it's heavily
23 traveled through cars and people.

10:15:48AM24 Q. Were you familiar with the immediate surrounding,
25 Henrietta Street behind, and the area surrounding the building

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1 itself?

10:15:57AM 2 A. Yes, sir.

10:15:57AM 3 Q. Was that from your patrol?

10:15:59AM 4 A. Yes, sir.

10:15:59AM 5 Q. I want to ask you then, you said you were called out and
6 you went to a muster location. What was your job or what
7 happened once you got there?

10:16:06AM 8 A. So basically a muster location is just one place where the
9 detectives can go to get on the same page, collect the
10 information known at the time, and then distribute
11 assignments. So we go to the muster location and we get
12 briefed on the situation and we get given our assignments from
13 that point.

10:16:25AM14 Q. And at that point in time what was sort of the interaction
15 between federal and local agencies or, for that matter,
16 different agencies that were cooperating?

10:16:34AM17 A. Yeah, with this incident there was a number of different
18 agencies responding. There was on the scene obviously us,
19 city police, there was fire, there was the county sheriff's
20 office, you know, we were told that state was en route. You
21 know, federal agencies were obviously coming. So at that
22 point it was just a pretty massive response in terms of other
23 agencies.

10:16:56AM24 Q. When you responded, who was coordinating the investigation
25 at that time?

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10:17:00AM 1 A. At that particular time the muster location my lieutenant
2 was, you know, giving us our direct assignments. But a MEOC,
3 which stands for Municipal Emergency Operation Center, that
4 was be started just blocks away. And that would be where the
5 leaders from the agency that was gathering and would begin to
6 make decisions.

10:17:22AM 7 Q. So when you first arrived, about how long after the
8 shootings, to the best you can recall, were you showing up on
9 scene?

10:17:29AM10 A. I got to the muster -- I got called at 9:15, and I mean
11 it -- I got there quick. So by the time I got there, you
12 know, maybe 9:30, 9:40.

10:17:42AM13 Q. And so when you showed up at that time, what were you
14 assigned to do, if anything?

10:17:47AM15 A. When I got to the muster location I was told to go over to
16 the Embassy Suites, which is again in Marion Square, it's a
17 motel there. Survivors and other people were being staged at
18 that location. So I was told to go over there and basically
19 just await further assignment. Mostly just for staging
20 purposes that we weren't directly across from the actual
21 church.

10:18:12AM22 Q. Did you do anything else there, or how long did you stay
23 there?

10:18:14AM24 A. I stayed at the muster location for maybe 15 minutes, and
25 then I was told to go to the church. And I went to the church

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1 and I stayed there for a little while.

10:18:23AM 2 Q. At the church or at the muster location?

10:18:25AM 3 A. At the church.

10:18:26AM 4 Q. Why did you go over to the church?

10:18:28AM 5 A. So I was told to go there and assist. There was some,
6 like I said, survivors would be in place there. And there was
7 some interviews being conducted, and I was basically just told
8 to offer assistance if needed. For the interviews. Or just
9 to wait further instruction.

10:18:42AM10 I was not asked to help with any of the interviews, so I
11 awaited further instruction.

10:18:46AM12 Q. Do you recall if there were -- if there was any kind of
13 joint interviewing going on at this time?

10:18:50AM14 A. There was, yeah, there was FBI agents there at that time
15 in particular, assisting with the survivor interviews I just
16 mentioned.

10:18:57AM17 Q. So if you could explain, you mentioned earlier there was a
18 MEOC set up, a center for command?

10:19:05AM19 A. Yes, sir.

10:19:05AM20 Q. What was the command structure as those interviews began,
21 what was the role of state and federal agents working
22 together?

10:19:11AM23 A. At that point, you know, everyone is trying to help each
24 other and gather as much facts as possible. And when you're
25 working obviously away from the command system, your job is to

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1 basically report back to back up so that they know they have
2 the latest information that you're getting. So that's kind of
3 how the structure worked.

10:19:30AM 4 Q. And so as far as you said you then displaced from the
5 hotel to the church, what happened then as far as your role?

10:19:38AM 6 A. Okay. So while I'm at the hotel I was informed that the
7 church may have some surveillance system in place. I was
8 asked to call a member of the church to confirm that. I did.
9 When I called that individual, I was told to contact the
10 secretary of the church.

10:19:54AM11 Q. Back up a little bit. So who gave you that assignment
12 about the video?

10:19:59AM13 A. Sure. So the Detective Burckhart was actually working
14 that night, so he was the responding detective. Like I said,
15 the rest of us were called out to assist. And so I get there
16 and I learn from Detective Burckhart that the church may have
17 some footage. He had contact person and he asked me to call
18 them to confirm.

10:20:18AM19 Q. Was Detective Burckhart working with any federal agent?

10:20:21AM20 A. He was.

10:20:21AM21 Q. Who was that?

10:20:22AM22 A. There was a Special Agent Durr there, that's one name that
23 stands out to me. There was a lot of people with him, so --

10:20:32AM24 Q. And so Detective Burckhart had you call an individual.
25 Who was the first person you had to call?

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10:20:38AM 1 A. So the first person I was told to call, his name was
2 Charles Williams, he was a member of the church. And I got
3 his name and phone number and I called him and asked, you
4 know, I heard the church has footage, is this true. And he
5 said yeah, the church does have footage; can you please call
6 our secretary, Althea Latham, and get the information from
7 her.

10:20:58AM 8 Q. And did he give you any other details about where the
9 video may be located or any other information that was
10 helpful?

10:21:05AM11 A. He passed me on to Miss Latham, and when I called her she
12 provided that information.

10:21:09AM13 Q. So what did -- I'm assuming you acted upon what
14 Miss Latham told you?

10:21:16AM15 A. I did.

10:21:16AM16 Q. So what did she tell you that was helpful to your
17 investigation?

10:21:21AM18 A. So when I called Miss Latham she told me that the church
19 did, in fact, have a security system in place, that it was
20 located in her office. She told me where her office was, she
21 told me the best way to access her office. She told me how I
22 could view the surveillance footage and the password to get
23 into the hard drive.

10:21:42AM24 Q. Did you write all that down?

10:21:44AM25 A. I did.

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10:21:45AM 1 Q. Once you had that information from her, did you -- what
2 did you do at that point?

10:21:49AM 3 A. So I took the information, like I said, and I passed it up
4 to the command structure so that everyone knew, yes, the
5 church does have footage, we know where it is and how to
6 access it. So that information was passed up, and then I
7 eventually went to the -- and was given further instruction.

10:22:06AM 8 Q. How long after you called the information in did you go to
9 the MEOC for further instruction? You have your notes in
10 front of you?

10:22:12AM11 A. I do, yes, sir.

10:22:13AM12 Q. Feel free to refer to them, if you need to.

10:22:16AM13 A. So I ended up speaking with Mr. Williams at about 11:40.
14 Miss Latham obviously after. And I went to the municipal --
15 the MEOC, I went to the MEOC at about 1:00 o'clock in the
16 morning.

10:22:30AM17 Q. Where was the MEOC set up?

10:22:31AM18 A. It was set up at 77 Calhoun Street, which is the Galliard
19 Auditorium.

10:22:36AM20 Q. So after you went to the MEOC, were you given further
21 instructions?

10:22:40AM22 A. I was. I was asked to go attempt to retrieve the footage
23 that I was told about by Miss Latham.

10:22:46AM24 Q. I want to ask you about who else was with you, and again
25 that sort of interagency operation or cooperation, who was

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1 then sort of giving out tasks or follow-up assignments?

10:22:57AM 2 A. So in that particular setting we had some police
3 department command, Major Broughton was there, Brian Womble is
4 a supervisor with the FBI, he was there. And there was other
5 various commanders there as well, but I was dealing with
6 mostly Mr. Womble.

10:23:13AM 7 Q. So did Special Agent Womble, did he send somebody else
8 with you or give you any specific instruction?

10:23:21AM 9 A. Yeah. So I was sent to the church again to attempt to
10 retrieve the footage, view the footage. And I was sent with
11 Corporal Van Horn, who works for the city, and Special Agent
12 Durr, who I mentioned earlier.

10:23:34AM13 Q. Did you have any particular responsibilities with regard
14 to the video?

10:23:39AM15 A. You know, the responsibility was to access it. And
16 obviously Miss Latham gave me instructions on how to do so, so
17 that was my responsibility, go to the church, access the
18 footage, report back what you see, and we'll try to retrieve
19 the system.

10:23:51AM20 Q. Did you go to the church?

10:23:52AM21 A. I did.

10:23:53AM22 Q. So it would have been you, Agent Durr, and is it Corporal
23 Van Horn?

10:23:57AM24 A. Yes, sir.

10:23:59AM25 Q. When you got to the church, what was the status of the

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1 investigation on site?

10:24:06AM 2 A. The status of the investigation at this point, they were
3 going to begin the processing inside the church. So obviously
4 resources were being put in place by SLED, the city, and again
5 the FBI to accomplish that. You know, us being given specific
6 instructions, you know, we kind of went towards those
7 instructions. The people that were about to process the
8 church knew we were there to get the footage to further the
9 investigation.

10:24:35AM10 Q. You testified earlier that you had sort of been -- had
11 some familiarity with the surroundings of the church building.

10:24:43AM12 A. Yes, sir.

10:24:44AM13 Q. When you got there that night did they seem familiar to
14 you, had you seen them as you had seen them before?

10:24:48AM15 A. Yes, sir, yeah.

10:24:50AM16 Q. Had you ever been inside the church before?

10:24:52AM17 A. To that point I had not been inside the church. I had
18 been outside the church and obviously passed it numerous
19 times, but had not been inside.

10:24:59AM20 Q. How did you know where to go inside the church?

10:25:02AM21 A. Miss Latham told me the best way to get into her office is
22 to go into the west parking lot door, her office was straight
23 ahead. And then right behind her office was the pastor's
24 study. So she gave me very specific directions on where to
25 go. It was obvious.

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10:25:17AM 1 Q. When you got to the scene itself did you have any
2 understanding of where the cameras may or may not be located
3 in the building or outside the building?

10:25:26AM 4 A. Right. At that particular point I did not know exactly
5 where the cameras were located. Miss Latham basically told me
6 that there was cameras on the outside of the church, and this
7 is how to access the footage. So in that moment I did not
8 know where exactly the cameras were, but I did find out.

10:25:40AM 9 Q. Did she explain to you or were you ever able to determine
10 if there are any cameras inside the church?

10:25:45AM11 A. So there's no cameras inside the church. There are three
12 exterior surveillance cameras. Two cover the back parking lot
13 that goes out to Henrietta Street, and then one covers the
14 door that I had just mentioned, that was the door that I was
15 to go through to get to her office.

10:26:03AM16 Q. I want to bring up Government's 20. Are you familiar with
17 Government's Exhibit 20?

10:26:19AM18 A. Yes, sir.

10:26:20AM19 Q. And does that have some indication of where the cameras
20 are, generally speaking, on buildings?

10:26:26AM21 A. Yes, sir, it does.

10:26:28AM22 Q. And if you could tell the jury.

10:26:31AM23 A. Okay. So you'll see the orange dots on the screen here,
24 this corner, there's a parking lot, like I mentioned. This
25 corner also has the parking lot view towards Henrietta Street.

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1 And then this main camera here, which is the doorway to get to
2 Miss Latham's office.

10:26:51AM 3 Q. And just to briefly explain, are those visible on the
4 exterior of the building?

10:26:55AM 5 A. Yes, sir.

10:26:56AM 6 Q. And those are the only three cameras you were aware of?

10:26:59AM 7 A. Those are the only three cameras, yes, sir.

10:27:00AM 8 Q. Can you explain to the jury relative to those cameras
9 where there are access doors?

10:27:07AM10 A. So access doors to the church are right there where I kind
11 of covered it up where it says rear. That's the door that
12 Miss Latham told me to go into, and then the front door.
13 Those are the access points to the church. Front door is on
14 the Calhoun Street side.

10:27:23AM15 Q. Is there a door where the handicap access is to?

10:27:28AM16 A. Yes, sir.

10:27:28AM17 Q. So two doors to the parking lot, one to the front, but the
18 door in the front and the -- I'm going to say where the
19 handicapped sign is, there's no cameras covering that?

10:27:38AM20 A. That's correct, no cameras.

10:27:41AM21 Q. So let's get back to your entering the church. Were her
22 directions accurate, did you find the system?

10:27:47AM23 A. Yes, sir, directions were very accurate. Went straight to
24 the office, saw the TV, saw the remote, and accessed the
25 system from there.

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10:27:55AM 1 Q. And if you could explain to the jury, what did the system
2 itself, how did it appear or what did it look like?

10:28:02AM 3 A. So the system was just a box, like I told you, it's -- she
4 told me it was connected to the TV. So when you walk into the
5 office you can actually turn the TV on and it's showing you
6 the picture of what the cameras are recording. So that's how
7 the system appeared.

10:28:21AM 8 Q. So you said you'd been outside and had a chance to observe
9 the exterior of the building?

10:28:26AM10 A. Yes, sir.

10:28:26AM11 Q. Did it appear that the camera was accurately recording
12 what was going on outside that you had just seen?

10:28:33AM13 A. Yes, sir.

10:28:36AM14 Q. So what did you do once you saw that it was actively
15 operating?

10:28:40AM16 A. So the first thing that I did, which is what I always do
17 when retrieving surveillance footage from a location, the
18 first thing I do is obviously have a note pad and I check what
19 time it is. Real time. And I wrote that down. And then I
20 immediately checked what the time is on the surveillance
21 system. That will give me an indication as to whether or not
22 the surveillance system is off time.

10:29:01AM23 Q. Is that something that is common? Why do you do that?

10:29:04AM24 A. It's pretty common that a surveillance system is off time.
25 Sometimes daylight savings time, people forget to change it,

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1 sometimes the power goes out and knocks it off. And so it is
2 pretty common, and that's why, like I said, I write down what
3 the real time is, I write down what the surveillance is. That
4 way I can know the time difference I'm looking at.

10:29:24AM 5 Q. Did you find a disparity in the time being shown on the
6 video and what you had as real time?

10:29:29AM 7 A. Yes, sir.

10:29:30AM 8 Q. How did you obtain your real time in that situation?

10:29:32AM 9 A. So the real time was taken from my cell phone and I wrote
10 that down, and at that time was 1:47 in the morning. And the
11 surveillance time was indicating that it was 1:50. So it was
12 obviously 12 hours behind.

10:29:48AM13 Q. So it was -- you were there at 1:47 a.m.?

10:29:52AM14 A. Yes, sir.

10:29:53AM15 Q. And the video is showing 1:50 p.m.?

10:29:55AM16 A. P.m., yes.

10:29:57AM17 Q. Same day before or day after?

10:29:59AM18 A. Surveillance system was showing the 17th at 13:50, so it
19 was approximately 12 hours behind real time.

10:30:07AM20 Q. So 12 hours and three minutes?

10:30:16AM21 A. Yes, sir.

10:30:11AM22 Q. Once you had determined sort of the time issue, what was
23 the next thing you did?

10:30:17AM24 A. So determining the time issue, I obviously knew what time
25 this incident was said to have happened, so you start going

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1 backwards. And so from that point I went backward and I
2 documented my observations. And just kept going from that
3 point.

10:30:33AM 4 Q. Let me ask you about how you were able, was there anything
5 to accessing the system? I think Miss Latham had described
6 some things to you. Do you have to do anything to access it?

10:30:42AM 7 A. So I had to, you know, press the menu button on the remote
8 and go into the function that I could play the surveillance
9 footage back, that required a password. She had provided that
10 password. I entered the password and then was able to access
11 the footage itself.

10:30:58AM12 Q. Was this system similar to ones you've used in the past?

10:31:01AM13 A. Yes, sir, it was.

10:31:04AM14 Q. So you didn't have any problems navigating it?

10:31:07AM15 A. No, sir.

10:31:09AM16 Q. Let me ask you, so once you see that it's working, give
17 the jury sort of an idea of what your plan is, what is your
18 approach to either viewing this, preserving it or otherwise in
19 terms of priority?

10:31:22AM20 A. So the priority is obviously to view it for suspect
21 information, and relay that information to your command so you
22 get that going in place.

10:31:31AM23 The second priority would then be to preserve the system
24 for evidentiary value, and so we -- that was our priority at
25 that point. Watch the footage for suspect information, and

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1 preserve the footage system.

10:31:45AM 2 Q. So tell the jury what you were able to obtain for
3 investigative purposes from watching the video in real time.

10:31:54AM 4 A. All right. So knowing what time the incident occurred,
5 knowing the nature of the incident and knowing the suspect
6 description that we were given, I watched the footage and I
7 start making observations. Like I said, I played it
8 backwards. I later put it in order. But I watched it
9 backwards initially to get a feel of what happened. The first
10 thing that I saw when I watched the footage, was -- let me
11 give you the time. First thing that I saw was a white male
12 exiting the church from that west door that I talked about,
13 holding a firearm. And that would have been at 21:06 hours
14 real time, based on the time.

10:32:42AM15 Q. At that point in time was there a description that had
16 gone out?

10:32:45AM17 A. There was. Yes, sir.

10:32:47AM18 Q. And did you -- so you had some basic information. There
19 was no identity have been --

10:32:52AM20 A. There was no identity, but it was a white male had
21 committed a shooting inside this church and fled.

10:32:58AM22 Q. Safe to say that was one of your primary responsibilities
23 was to try to ascertain some evidence of identification?

10:33:05AM24 A. Yes, sir.

10:33:05AM25 Q. And so when you saw that, what did you do once you were

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1 able to find out parts of the video?

10:33:12AM 2 A. So as I found parts of the video that helped the cause of
3 identifying the suspect, I photographed that for distribution
4 purposes. We oftentimes will do what's called BOLOs, be on
5 the look out. But basically our -- if we can identify a
6 suspect in a case to get their image out so we can identify
7 them.

10:33:38AM 8 Q. Explain that, you said BOLO, what's that mean?

10:33:42AM 9 A. So it's a be on look out, basically it's a flier. And we
10 put information that's known about what we're investigating
11 out, and we obviously put the pictures out with the
12 descriptions. And we ask for, you know, help and, you know,
13 do you recognize this person, if you recognize this car, if
14 you know anything about this, call us. It's basically us
15 reaching out to the news, other law enforcement agencies,
16 community, asking for help on the situation.

10:34:12AM17 Q. And as far as putting it together, did -- you said you
18 took a picture?

10:34:17AM19 A. Yes, sir.

10:34:17AM20 Q. With what?

10:34:18AM21 A. At that time I had my phone, and so as I'm watching these
22 images on the screen, I take pictures with my phone, and I was
23 able to use those pictures later to create the BOLO I talked
24 about.

10:34:28AM25 Q. Did you create the BOLO or the document that went out, or

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1 did you just send the pictures?

10:34:34AM 2 A. I did. I created the BOLO. So I alerted obviously the
3 command system to this information, and then later I was
4 tasked with creating a BOLO for distribution.

10:34:44AM 5 Q. I'm going to show you Government's proposed Exhibit 104.
6 Do you recognize that?

10:34:50AM 7 A. I do, yes, sir.

10:34:51AM 8 Q. Were you involved in creating that?

10:34:53AM 9 A. Yes, sir, I did.

10:34:53AM10 Q. Are those the images you took?

10:34:55AM11 A. Yes, sir, they are.

10:34:57AM12 MR. WILLIAMS: I give those to defense counsel.

10:35:12AM13 MR. BRUCK: No objection.

10:35:13AM14 THE COURT: What's the number?

10:35:16AM15 MR. WILLIAMS: 104.

10:35:16AM16 THE COURT: Government 104 is admitted without
17 objection.

10:35:19AM18 (Government Exhibit 104 received.)

10:35:19AM19 BY MR. CURRAN:

10:35:20AM20 Q. I'm going to call up then Exhibit 104. You testified
21 earlier about the cameras that were located at the church.
22 Explain that a little bit more how those cameras work in terms
23 of the video. Are they all going at the same time or how do
24 you figure that out?

10:35:38AM25 A. Right. So in this particular instance at the church these

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1 cameras are motion activated. So if motion occurs, the camera
2 will turn on. Began capturing motion. And after awhile it
3 will turn back off.

10:35:52AM 4 Q. Explain that a little bit better. What's motion activated
5 mean?

10:35:56AM 6 A. I mean to explain it the best I could, if you had a
7 surveillance camera that was always on you, then it would
8 always just be on you and it would always be on and recording.
9 Some cameras are motion activated, so if that door were to
10 have a motion activated camera and nobody was moving toward
11 that door, it wouldn't be recorded. But when movement gets in
12 front of the camera, then it would turn on to record.

10:36:18AM13 Q. And does that stay on, what you could tell at least in
14 your investigation, for a specific amount of time?

10:36:24AM15 A. It does, it seems to stay on for a period of time, I don't
16 know exactly how long it stays on, but it does stay on and
17 then when the motion comes, it turns back on.

10:36:33AM18 Q. And then if you could also explain from the -- where the
19 cameras were located and the scope of what they captured.

10:36:41AM20 A. Sure. So this BOLO actually has pictures taken from each
21 of the three cameras that I had mentioned to you. This
22 picture here -- in this picture here is the west door that I
23 mentioned. This picture here is also from the west door. And
24 these -- this picture is from the parking lot camera that
25 covers Henrietta Street, and this camera would be the one that

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1 captures the parking lot.

10:37:12AM 2 Q. Once -- if you'd also explain, do they all -- I know
3 they're motion activated, but can they record
4 contemporaneously, meaning if one camera is recording, does it
5 exclude the others, or can they all record at the same time?

10:37:26AM 6 A. They can all be recording at the same time.

10:37:28AM 7 Q. So once you were able to take the photos of the screen and
8 send that out, what was the next step in your investigation?

10:37:36AM 9 A. So once I was able to gather the information in the photos
10 here, I obviously sent that to the MEOC. And from that point
11 I was told to go back to headquarters and prepare the BOLO
12 that you're looking at now and get that ready for
13 distribution. So I did.

10:37:54AM14 Q. You testified earlier that there were several people
15 involved, and that part of your concern as an investigator was
16 to make sure that not just the suspect information was
17 obtained, but also the system was preserved for later
18 evidentiary value.

10:38:10AM19 A. Yes, sir.

10:38:11AM20 Q. How did that happen in this case?

10:38:13AM21 A. So Special Agent Durr and Corporal Van Horn stayed behind
22 to take care of actually retrieving that system from the
23 church and physically putting it into evidence later.

10:38:23AM24 Q. Was that -- were you able later to -- able to inspect the
25 data that came off of that device?

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10:38:31AM 1 A. I was, yes, sir.

10:38:32AM 2 Q. And that was processed through your evidence unit?

10:38:34AM 3 A. Yes, sir.

10:38:34AM 4 Q. Was the footage you reviewed later, fairly and accurately
5 depicting what you saw in the video in real time then and what
6 you knew the area was like outside?

10:38:45AM 7 A. Yes, sir.

10:38:49AM 8 Q. I'm going to show you a group of exhibits, Government's
9 proposed 23A through V, if you look at those.

10:39:08AM10 A. Yes, sir. Yes, sir, these are disks of --

10:39:18AM11 Q. And you have initialed all of those?

10:39:20AM12 A. Yes, sir.

10:39:21AM13 Q. And those are accurate depictions of the footage that you
14 saw at the time and reviewed since?

10:39:29AM15 A. Yes, sir.

10:39:30AM16 Q. They fairly and accurately represent the area outside the
17 church detected by the cameras?

10:39:39AM18 A. Yes, sir.

10:39:41AM19 MR. WILLIAMS: I'm going to show these to defense
20 counsel.

10:40:03AM21 MR. BRUCK: No objection.

10:40:06AM22 MR. WILLIAMS: Your Honor, I'm not going to publish
23 these yet, but I will move to admit Government's 23A to V.

10:40:15AM24 THE COURT: A to V, as in victory?

10:40:17AM25 MR. WILLIAMS: Right.

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10:40:18AM 1 THE COURT: Very good. No objection from the
2 defense?

10:40:20AM 3 MR. BRUCK: That's correct.

10:40:21AM 4 THE COURT: Government's 23A through V admitted
5 without objection.

10:40:24AM 6 (Government Exhibits 23A through 23V received.)

10:40:24AM 7 BY MR. WILLIAMS:

10:40:27AM 8 Q. I want to ask you first, Detective English -- Sergeant
9 English -- you went back, you said the entire system was
10 seized, is that correct?

10:40:37AM11 A. Yes, sir.

10:40:37AM12 Q. About how many days of footage, to your best recollection,
13 were available to you for inspection?

10:40:44AM14 A. There were several days of footage on the system itself.
15 I don't know the specific number of days, but I believe it was
16 four or five.

10:40:52AM17 Q. And at some point did you go back and review June 17th,
18 2015?

10:41:00AM19 A. I did, yes, sir.

10:41:02AM20 Q. What was your purpose in reviewing, or why would a
21 detective want to review an entire day of video footage?

10:41:09AM22 A. So obviously thoroughness is the main goal, you want to
23 make sure you document everything. And all the activity going
24 on at the church, who is coming and going, if you can identify
25 people, whether they be victims, whether they be survivors,

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1 whether they be suspect. So you watch this footage for the
2 entire period of time so that you can have thorough
3 understanding of what happened before, during and after the
4 incident.

10:41:37AM 5 Q. So were you the one that sat down and went through that
6 video?

10:41:40AM 7 A. Yes, sir.

10:41:40AM 8 Q. Tell the jury how you processed it or found relevant
9 information from that video?

10:41:46AM10 A. Sure. So watching the video, basically my job was at that
11 particular time to just document my observations, what do I
12 see. You know, this person arrives, this person walks in the
13 door, this person walked out of the door. So it went on like
14 that obviously for some time, because you're watching a whole
15 day for three cameras.

10:42:10AM16 So I basically documented my observations and was able to
17 prepare basically just a presentation of what happened during
18 the whole day.

10:42:22AM19 Q. Do you catalog effectively every person that was visible
20 on the cameras going in and out of the church?

10:42:28AM21 A. Yes, sir.

10:42:28AM22 Q. Did you use that information to try to correlate it to
23 known individuals?

10:42:33AM24 A. Yes, sir.

10:42:34AM25 Q. When I say known, tell me what known individuals you

DANIEL ENGLISH - DIRECT EXAMINATION

1 considered.

10:42:38AM 2 A. Sure. So obviously with knowledge of the case and who the
3 victims and the survivors were, I knew who the defendant was,
4 and so I cataloged basically my observations of those
5 individuals, if possible, and put them into a timeline.

10:42:54AM 6 Q. Were you able to sequence what you thought were relevant
7 parts of the video that sort of are chronologically ordered
8 throughout the day?

10:43:03AM 9 A. Yes, sir.

10:43:04AM10 Q. And you prepared that order for court today?

10:43:06AM11 A. Yes, sir.

10:43:07AM12 Q. So what I want to do then is start with if you could tell
13 the jury the first video you saw that was relevant to the
14 investigation and what it depicts.

10:43:16AM15 A. So the first video and the order is 23U, as in union. And
16 that would be Sharonda Coleman Singleton entering into the
17 side door.

10:43:51AM18 Q. And the time on there was about 1:06, 1:07; that would
19 have been 1:06, 1:07 p.m., not a.m.?

10:43:59AM20 A. That's correct.

10:44:00AM21 Q. Was that the first video of a victim or survivor that you
22 saw?

10:44:05AM23 A. Yes, sir.

10:44:05AM24 Q. That was about 1:00 p.m.?

10:44:07AM25 A. Yes, sir.

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10:44:07AM 1 Q. What was the second item that you saw?

10:44:09AM 2 A. The second item I saw was 23J, as in John, and that is
3 Susie Jackson arriving in the parking lot at about 1:28 p.m.

10:45:05AM 4 Q. I want to ask you also, was there any audio capability on
5 the system?

10:45:09AM 6 A. No, sir.

10:45:10AM 7 Q. No sound was recorded?

10:45:11AM 8 A. No, sir.

10:45:14AM 9 Q. Tell the jury what the next section was that you found.

10:45:16AM10 A. The next one that I found was 23I, as in Ida, and that is
11 Susie Jackson entering the side door at 1:29 p.m.

10:45:26AM12 Q. That's a continuation of the earlier video?

10:45:28AM13 A. Yes, sir.

10:45:53AM14 Q. What was the next section you found relevant?

10:45:56AM15 A. 23K, as in king, is Myra Thompson entering the side door
16 about 4:59 p.m.

10:46:03AM17 Q. That's at about 5:00 o'clock?

10:46:04AM18 A. Yes, sir.

10:46:06AM19 Q. We'll play that. I'm going to ask you briefly, with some
20 of these videos it's obviously somebody walking through the
21 door. If there was other video in the parking lot, you didn't
22 necessarily pull every single video, just where they were
23 found, one video that best showed them?

10:46:31AM24 A. Correct.

10:46:32AM25 Q. What was the next section you found?

DANIEL ENGLISH - DIRECT EXAMINATION

10:46:33AM 1 A. Next section, 230, as in ocean, is Depayne Middleton
2 entering the side door.

10:46:51AM 3 Q. What was the next section you located?

10:46:52AM 4 A. The next section I located was Polly Sheppard entering the
5 side door, 23H, as in Henry.

10:46:59AM 6 Q. That was at about 5:43.

10:47:01AM 7 A. Yes, sir, 5:43.

10:47:18AM 8 Q. Was there another video shortly after that?

10:47:20AM 9 A. There was.

10:47:21AM10 Q. What was the time and what did it depict?

10:47:23AM11 A. The next video, 23M, as in Mary, is Myra Thompson entering
12 the side door.

10:47:31AM13 Q. 23M as in Mary?

10:47:32AM14 A. Yes, sir.

10:47:51AM15 Q. What was the next area you found that was relevant?

10:47:53AM16 A. The next video is 23P, as in Paul, and that is Mr. Daniel
17 Simmons arriving in the parking lot.

10:48:02AM18 Q. I'll play that. And that was at about 5:48, 5:49?

10:49:00AM19 A. Yes, sir.

10:49:01AM20 Q. What was the next section you found relevant?

10:49:02AM21 A. The next section was 3L, as in Lincoln, and it's Myra
22 Thompson stepping outside at about 6:00 p.m.

10:49:10AM23 Q. About 6:00 p.m.?

10:49:11AM24 A. Yes, sir.

10:49:26AM25 Q. What was the next section you found?

DANIEL ENGLISH - DIRECT EXAMINATION

10:49:28AM 1 A. The next section is 23G, as in George, and that's Polly
2 Sheppard stepping outside at about 6:07 p.m.

10:49:53AM 3 Q. I wanted to ask you about the next section; was there one
4 of the cameras that made it hard to determine sort of the
5 exact time?

10:49:59AM 6 A. Yes, sir.

10:49:59AM 7 Q. And because it's sort of washed out with the sun?

10:50:03AM 8 A. Yes, sir.

10:50:03AM 9 Q. What was the next one you were able to at least put
10 chronologically in order?

10:50:07AM11 A. Yes, sir, the next video is 23A, as in apple, has Cynthia
12 Hurd arriving in the parking lot.

10:50:56AM13 Q. And was that -- we see her there walking towards the
14 building. Was that picked up in other video when she came
15 around the corner?

10:51:03AM16 A. Yes, sir.

10:51:04AM17 Q. What video is that?

10:51:05AM18 A. The next video is 23B, boy, and that's Miss Hurd
19 interacting with Reverend Pinckney in front of the door.

10:51:11AM20 Q. That was at about 7:35?

10:51:15AM21 A. Yes, sir.

10:52:02AM22 Q. Now, that clip had shown, you said, Reverend Pinckney with
23 Miss Hurd. Was that taken from a section of video where Mr.
24 -- Reverend Pinckney was sort of interacting or walking around
25 outside?

DANIEL ENGLISH - DIRECT EXAMINATION

10:52:15AM 1 A. Yes, sir.

10:52:16AM 2 Q. And that's 23V, as in Victor?

10:52:20AM 3 A. 23V, as in Victor, is Reverend Pinckney.

10:52:24AM 4 Q. That's about a four- or five-minute clip?

10:52:27AM 5 A. Yes.

10:52:30AM 6 MR. WILLIAMS: I'm going to show that, Your Honor.

10:52:40AM 7 (Video played.)

10:52:41AM 8 BY MR. WILLIAMS:

10:57:22AM 9 Q. So that clip ran from 7:35 to about 7:40.

10:57:27AM 10 A. Yes, sir.

10:57:27AM 11 Q. What was the next clip or section that you found that was
12 relevant to individuals involved in this crime?

10:57:33AM 13 A. So the next clip that I found was 23N, as in Nora, Depayne
14 Middleton entering the side door about 7:49.

10:57:51AM 15 Q. So that was 7:49, just after, was there another clip sort
16 of in that same time frame?

10:57:57AM 17 A. Yes, sir, same time frame, 23S, as in Sam, is Daniel
18 Simmons stepping outside.

10:58:24AM 19 Q. 23 --

10:58:27AM 20 A. 23S, as in Sam.

10:58:31AM 21 Q. 23S. And does that continue to another section?

10:58:38AM 22 A. Yes, sir, and section 23T, as in Tom, Daniel Simmons
23 re-enters the side door.

10:58:54AM 24 Q. And from another location of him on 23Q?

10:58:58AM 25 A. Yes, sir.

DANIEL ENGLISH - DIRECT EXAMINATION

10:58:59AM 1 Q. I'll publish that. I want to ask you, that was around
2 7:50, 7:55, somewhere in that range?

10:59:40AM 3 A. Yes, sir.

10:59:40AM 4 Q. You mentioned earlier that there was a separate door at
5 the front that didn't have any camera surveillance?

10:59:46AM 6 A. That's correct.

10:59:47AM 7 Q. In your review of all the video, were you ever able to
8 locate any video of who you thought to be Ethel Lance?

10:59:53AM 9 A. No, sir.

10:59:54AM10 Q. How about Tywanza Sanders?

10:59:56AM11 A. No, sir.

10:59:57AM12 Q. Or Felicia Sanders?

10:59:58AM13 A. No, sir.

10:59:59AM14 Q. So you are familiar with who they were, you just couldn't
15 find any video; maybe they entered a separate door?

11:00:04AM16 A. Correct.

11:00:05AM17 Q. I'm going to show you -- I'm going to pull up now
18 Government's Exhibit 23E and play that. I'm going to also
19 publish 23C, as in cat. That was at 8:17 on the video time?

11:01:13AM20 A. Yes, sir.

11:01:14AM21 Q. What was the next relevant section time; 9:06?

11:01:18AM22 A. Yes, sir.

11:01:19AM23 Q. I'm going to display then Government's 23 D, as in dog.
24 I'm going to play, following that one, 23F.

11:02:46AM25 (Video played.)

DANIEL ENGLISH - DIRECT EXAMINATION

11:02:46AM 1 Q. And I believe the earlier clip where the defendant was
2 entering, you said was about 8:16 p.m.?

11:02:51AM 3 A. Yes, sir.

11:02:52AM 4 Q. And the time of exit was about 9:07?

11:02:57AM 5 A. Yes, sir.

11:02:57AM 6 Q. So about 50 minutes elapsed between the time he entered
7 and left?

11:03:01AM 8 A. Yes, sir.

11:03:03AM 9 Q. Did you also screen the video to determine when Dan
10 Simmons was taken out of the church?

11:03:09AM11 A. I did, yes, sir.

11:03:10AM12 Q. About what time did you see that video captured?

11:03:13AM13 A. That is about 9:31.

11:03:22AM14 Q. From your knowledge of the case, do you know sort of where
15 Mr. Simmons was located?

11:03:26AM16 A. Generally located in the breezeway off of that west door,
17 and 23R is the clip of him.

11:03:32AM18 Q. He would have been located where the defendant was walking
19 out?

11:03:35AM20 A. Yes, sir.

11:03:35AM21 Q. And if you could, I'm going to publish 23R.

11:04:43AM22 MR. WILLIAMS: Your Honor, I'm going to try to use
23 the physical exhibit; I think we have some issues with that.

11:05:06AM24 THE COURT: It's playing now.

11:05:26AM25 MR. WILLIAMS: Sorry. We'll publish 23R.

DANIEL ENGLISH - DIRECT EXAMINATION

11:05:28AM 1 (Video played.)

11:05:28AM 2 BY MR. WILLIAMS:

11:06:06AM 3 Q. Detective English, apart from your role in reviewing that
4 video, did you have much of a substantial role otherwise in
5 the investigation?

11:06:13AM 6 A. No, sir.

11:06:13AM 7 Q. You worked with Federal Agent Hamski in identifying these
8 individuals and putting together those clips?

11:06:19AM 9 A. Yes, sir.

11:06:21AM10 MR. WILLIAMS: No further questions, Your Honor.

11:06:23AM11 THE COURT: Cross-examination.

11:06:27AM12 MR. BRUCK: We have no questions.

11:06:29AM13 THE COURT: Very good. Sergeant, you may step down.

11:06:31AM14 A. Thank you.

11:06:33AM15 THE COURT: Call your next witness.

11:06:37AM16 MR. WILLIAMS: Government calls Brittany Burke. I'm
17 sorry, Your Honor, Government calls Tre Tallon. Got ahead of
18 myself.

11:07:12AM19 THE CLERK: State your full name for the record,
20 please.

11:07:13AM21 A. James Tallon.

11:07:16AM22 JAMES TALLON, a witness called by the Government, first
23 having been duly sworn, testified as follows.

11:07:22AM24 DIRECT EXAMINATION

11:07:34AM25 BY MR. WILLIAMS:

JAMES TALLON - DIRECT EXAMINATION

11:07:41AM 1 Q. Sir, if you could, give the jury your name.

11:07:43AM 2 A. James Tallon, T-A-L-L-O-N.

11:07:48AM 3 Q. You go by Tre?

11:07:49AM 4 A. Yes, sir, I do.

11:07:51AM 5 Q. Can you tell the jury where you work?

11:07:53AM 6 A. I work for the South Carolina Law Enforcement Division,
7 also known as SLED.

11:07:58AM 8 Q. Explain to the jury basically or generally what SLED is as
9 an enforcement agency and what their role is in
10 investigations.

11:08:07AM11 A. Basically we are an assisting agency, and we assist any
12 agency inside of the State of South Carolina for various
13 calls, whether it be a homicide, burglary, anything in
14 between.

11:08:18AM15 Q. And you say the State of South Carolina; is that the
16 entire state?

11:08:21AM17 A. Yes, sir, the entire State of South Carolina.

11:08:23AM18 Q. Why, or in what circumstances do other agencies need
19 SLED's assistance or help?

11:08:32AM20 A. If they need specific expertise or extra equipment, then
21 we can provide that.

11:08:38AM22 Q. What's your job at SLED?

11:08:40AM23 A. I'm a crime scene special agent. I work the entire State
24 of South Carolina answering calls for service for various
25 types of crimes. I also have what's called a plus one, which

JAMES TALLON - DIRECT EXAMINATION

1 is advanced digital photography, where I'm trained in
2 photography and 3-D crime scene.

11:08:59AM 3 Q. How long have you worked in law enforcement?

11:09:04AM 4 A. Law enforcement, I've been about eight years.

11:09:07AM 5 Q. What did you do before you worked in law enforcement?

11:09:10AM 6 A. I was in college, and I was a pharmacist technician for
7 about 13 years.

11:09:15AM 8 Q. What did you study in college?

11:09:18AM 9 A. I was -- I went to the Savannah College of Art and Design
10 in Savannah, Georgia, got a bachelor's in visual effects.

11:09:26AM11 Q. How did you end up going from art design school to law
12 enforcement?

11:09:29AM13 A. Great question. My father was in law enforcement, it's
14 always been in my blood. And then once I got out of college I
15 started doing a recruitment video for a city local to where I
16 lived, and the chief asked me if I would like to get a job,
17 and here I am.

11:09:50AM18 Q. What was that agency?

11:09:52AM19 A. That was the City of Sumter police department.

11:09:54AM20 Q. What did you do at the Sumter police department?

11:09:56AM21 A. I started out on patrol, just like a normal police
22 officer, worked on patrol for a year and a half, and then got
23 promoted back into our ISD, which is investigative services
24 division, as a detective, and worked my way into crime scene,
25 where I spent most of my time there. I did a total of five

JAMES TALLON - DIRECT EXAMINATION

1 years for the City of Sumter.

11:10:17AM 2 Q. And how many of those years were in crime scene?

11:10:20AM 3 A. About three and a half, four years.

11:10:21AM 4 Q. And when did you start with SLED? Was that your next job?

11:10:25AM 5 A. I went straight from the City of Sumter to SLED, and I've
6 been here for almost three years now.

11:10:31AM 7 Q. What was your first assignment at SLED, crime scene?

11:10:35AM 8 A. Right straight to crime scene.

11:10:36AM 9 Q. So if you can, explain to the jury, you sort of said you
10 have a plus one. Is that in addition to traditional crime
11 scene duties, or does that supplant those duties?

11:10:47AM12 A. Correct, that is -- it's an additional job basically. We
13 can take photographs if an agency contacts us and they need
14 photographs taken of an object or aerial photography, we can
15 go get on the helicopter and take photos for them. Or we can
16 respond and take specialized photos for them, or we can also,
17 inside of photography, we have what's called a FARO, and we
18 will do 3-D crime scene scans.

11:11:20AM19 Q. So I want to ask you though, are you also a crime scene
20 investigator?

11:11:23AM21 A. Yes, sir.

11:11:24AM22 Q. Is that your primary duty?

11:11:25AM23 A. That's my primary job is to answer calls for service.

11:11:28AM24 Q. If you can, tell the jury what your primary duties are and
25 how crime scene officers respond to scenes or process scenes.

JAMES TALLON - DIRECT EXAMINATION

11:11:38AM 1 A. Basically how it works is the agency somewhere in the
2 State of South Carolina that needs our assistance will call
3 what we call our OD, which is operations desk, it's basically
4 a dispatch. And then their dispatch will contact us, whoever
5 is on call. And they will call you 24 hours a day, and when
6 your phone answers, you ring it -- you answer -- when your
7 phone rings, you answer it. And they will tell you where they
8 need you to go and what for.

11:12:08AM 9 We get in our trucks, we respond code blue, lights and
10 sirens to wherever it is in the State of South Carolina. And
11 then once we get there, we get the initial information from
12 the local agency as to what happened. And then we will go
13 from there as to what we need to take as our next step,
14 whether it be photographs or do an initial walk through.

11:12:29AM15 Q. And do you -- I'm going to say do you handle traditional
16 type crime scene work in addition to sort of your graphic or
17 sort of collateral duties?

11:12:38AM18 A. Correct.

11:12:38AM19 Q. Explain to the jury first sort of how leads get set on
20 cases when calls go out.

11:12:45AM21 A. How --

11:12:46AM22 Q. How does somebody end up being a lead crime scene
23 investigator versus somebody on the team?

11:12:50AM24 A. Gotcha. It's usually we work in teams of two. So it
25 would be me and my partner. Unless it's a larger crime scene,

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1 and then we will request for more crime scene agents. But if
2 I am the first one up to get a phone call, if it's my team,
3 then I'll take the first case that comes out. We do a two-
4 week call rotation. So within that two weeks we're on call
5 24/7. And so if the first call comes out, I'll get it, and
6 then that will be my case. And I take that case and I handle
7 it from the beginning to end. My partner makes -- basically
8 just helps me with the photographs and collecting evidence,
9 things of that nature.

11:13:30AM10 And then the next call that comes out, whenever that is,
11 it will be his case, and then I will help him.

11:13:35AM12 Q. So I want to ask you about your collateral duties then.
13 With regard to the case you're here for today, were you the
14 lead crime scene investigator, or did you have collateral
15 duties?

11:13:44AM16 A. Collateral duties.

11:13:45AM17 Q. Who was the lead crime scene agent?

11:13:47AM18 A. That would be Brittany Burke.

11:13:49AM19 Q. So I want to ask you about your collateral duties. You
20 mentioned a little bit that you had some graphic design or
21 graphics background. What do you do specifically with SLED
22 that is your specialty, so to speak?

11:14:03AM23 A. With the FARO.

11:14:06AM24 Q. Why don't you describe your overall -- I mean your
25 collateral duties are, your plus one.

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11:14:11AM 1 A. In the plus one we take photographs, whether it be on
2 scene, for local agencies. Or if somebody were to submit this
3 book here and it had a latent fingerprints on it, then it
4 would come back to our photography lab, at which point I would
5 photograph it. And then we take those photographs and send
6 them to a latent examiner who will determine who the
7 fingerprints belong to. We also do footwear and tire tread
8 examination at SLED. So we will take photographs for that and
9 send those where they need to be. And on the other side of
10 that is where we do our 3-D crime scene scans, where we
11 actually go to a scene and do multiple scans of an area and
12 combine those together and give them to the attorneys for
13 presentation.

11:15:05AM14 Q. As far as that scanner, do you have any specialized
15 training in that area?

11:15:10AM16 A. I do. I have been to several different trainings for the
17 actual FARO. And when I say FARO, that is the name brand,
18 it's kind of like Honda or Ford. It's a 3-D laser scanner,
19 but the brand name of it is a FARO.

11:15:29AM20 Q. And is that something you have either trained in and used
21 as well?

11:15:33AM22 A. Correct. Once we purchased it, the company came and gave
23 us training on it, hands-on training, showed us how to use the
24 software that goes along with it, and also had to have -- had
25 to have had a 40-hour course on the FARO itself, using that,

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1 where at the end of that course you have to take a test. And
2 I've also had a two-week course on the FARO and some of the
3 software that goes with it.

11:16:00AM 4 Q. Have you testified as an expert in that area before?

11:16:03AM 5 A. Yes, sir, I have.

11:16:04AM 6 Q. What is your area of expertise with regard to the FARO?

11:16:08AM 7 A. Advanced digital photography.

11:16:10AM 8 MR. WILLIAMS: Your Honor, I'm going to move to
9 qualify Mr. Tallon as an expert in advanced digital
10 photography.

11:16:17AM11 THE COURT: Any objection?

11:16:18AM12 MR. BRUCK: No, sir.

11:16:18AM13 THE COURT: The witness is recognized as an expert in
14 advanced digital photography. Please continue.

11:16:24AM15 BY MR. WILLIAMS:

11:16:24AM16 Q. Tell us first of all about this case and how you were
17 involved and what your role was.

11:16:29AM18 A. On the night we were called, I believe it was the 18th,
19 when we actually received the call at about 1:00 in the
20 morning, I left my home and went to headquarters and picked up
21 the FARO, because I was told that we were more than likely
22 going to need it. There were several teams going, we had
23 three teams going, so we had six people headed that way. I
24 went to headquarters, I picked up the machine, got in the
25 truck and drove myself to Charleston.

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11:17:01AM 1 Q. You testified earlier that there was some equipment that
2 maybe you have that the locals may not have. Is the FARO an
3 example of that?

11:17:11AM 4 A. That is an example. It's a fairly pricey piece of
5 equipment. We have two of them, and they run about 120 to
6 \$130,000.

11:17:21AM 7 Q. For each?

11:17:22AM 8 A. Per machine.

11:17:23AM 9 Q. And so do you know if the local officers had the ability
10 to use one of those?

11:17:29AM11 A. The only agency in the State of South Carolina that I know
12 that has one other than us is Myrtle Beach.

11:17:37AM13 Q. Do you know if federal agencies have them?

11:17:38AM14 A. I actually don't know if they have it.

11:17:40AM15 Q. So did they ask you to bring the FARO, or is that
16 something you knew to take with you?

11:17:45AM17 A. I was asked. When I got the phone call from my lieutenant
18 saying what the nature of the crime was, she had asked me if
19 the batteries and all the equipment were ready to go from the
20 machine, at which point I told her that yes, it is ready and
21 I'm already getting dressed.

11:18:03AM22 Q. So what did you do then once you got the call to respond?

11:18:07AM23 A. Once I got the call, I went to the headquarters, picked up
24 the machine and headed to Charleston.

11:18:14AM25 Q. When you got out to Charleston, who was the -- you said, I

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1 think, Miss Burke was the lead?

11:18:19AM 2 A. Correct.

11:18:19AM 3 Q. What was your role on scene or what did you find when you
4 got there?

11:18:23AM 5 A. Once we got here, we did a quick walk through just to kind
6 of see what we had. And then Agent Burke kind of delegated
7 what everybody was going to be doing, and I eventually came to
8 doing the 3-D scans.

11:18:43AM 9 Q. If you could, give the jury a brief -- you said we went
10 through to see what we had. What did you have?

11:18:50AM11 A. Say that again?

11:18:51AM12 Q. You said that you did a brief walk through to see what you
13 had. What was it that presented itself or what would you say
14 you had when you first arrived, from a crime scene
15 perspective?

11:18:59AM16 A. We had a large amount of evidence around the area, mainly
17 on the inside of the building. And knowing that we had such a
18 large amount of evidence and that the room was somewhat
19 contained, and that the scene was contained to one room, we
20 knew that we would be doing several scans.

11:19:24AM21 Q. So tell the jury a little bit about the FARO scanner, how
22 it's set up and how it operates.

11:19:31AM23 A. The scanner is basically -- it's a computer, like anything
24 else these days. But it sits on top of a tripod, which is a
25 regular camera tripod, and it has a touch screen on one side.

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1 On that touch screen you can set up the type of scan you're
2 going to be doing, which at SLED we only have two presets that
3 we use. And that's an inside scan and an outside scan. And
4 the only difference between those two is how many points that
5 the scanner collects, how many data points the scanner
6 collects when it runs.

11:20:08AM 7 Q. I want to ask you about the exhibit in this case. Is the
8 exhibit that you prepared for court today 2-D or 3-D?

11:20:16AM 9 A. It is 2-D.

11:20:17AM10 Q. If you could just explain to the jury what the 2-D
11 capacity is, since the 3-D wasn't utilized.

11:20:22AM12 A. Okay. So with that, what happens is that there's a mirror
13 in the middle of the machine. As that spins and the laser
14 comes out and hits and it goes to a point and it collects the
15 data points and it comes back and says this area is six feet
16 from me or however far it is. Comes back to the machine. It
17 also picks up an intensity of power from the laser bouncing
18 off an object coming back, which gives it a representation of
19 a black and white image. You can do color imagery with it as
20 well, but in this case --

11:21:03AM21 Q. Let me stop you there. Does it take pictures as well?

11:21:06AM22 A. It does. It takes photographs.

11:21:07AM23 Q. Okay. So you set it up; do you get out of the way?

11:21:11AM24 A. Correct. Once you hit start on the machine, it handles
25 everything all by itself.

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11:21:18AM 1 Q. And that's something you then preserve later, once it's
2 taken sort of the photographs?

11:21:25AM 3 A. Correct. Once it's completed with that scan, you can move
4 it, do another one, and however many you want to do. And when
5 it's done, it gets everything saved onto an SD card, just like
6 most cameras.

11:21:38AM 7 Q. And as far as the determination of location, is that
8 something that you do? Where the scanner is set up?

11:21:44AM 9 A. It is.

11:21:45AM10 Q. Did you do that in this case?

11:21:46AM11 A. Yes, sir, I did.

11:21:47AM12 Q. How do you decide the appropriate, or how did you decide
13 the appropriate place to take a scan or a picture?

11:21:54AM14 A. Basically you want to look at the area and determine what
15 you can see from where you're standing. If you can not see an
16 object, then the scanner can't see the object. Just like a
17 camera. It is a camera. So if I were to want to scan this
18 room, I would do one in this area and then one over here in
19 this area, and probably several back to get down those aisles.

11:22:19AM20 Q. And is that something you did in this case?

11:22:21AM21 A. Yes, sir.

11:22:22AM22 Q. Do you know about approximately how many different
23 locations you set up the scanner?

11:22:25AM24 A. Eighteen or 19.

11:22:27AM25 Q. That was both inside and outside the building?

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11:22:29AM 1 A. Inside and outside total.

11:22:31AM 2 Q. And after those scans were done, I think you said that you
3 then turn it in to a type of software, a web scene, I think
4 it's called, that can be presented to a jury?

11:22:41AM 5 A. Correct. Once you have the data, you can take it back and
6 place it into the scene software, is what it's called. And it
7 will export out pretty much automatically web share to go, and
8 when you open it up, it creates a web browser, the Chrome web
9 browser will open up, and at that point you can click on a
10 thumbnail of the image or a top down view of the image,
11 showing where the scans were located, and then spin around
12 inside of the scene and like a panoramic image.

11:23:22AM13 Q. As far as this case and the exhibit, is that the scanned
14 photos that were taken by the FARO?

11:23:29AM15 A. Correct.

11:23:30AM16 Q. So the 30 pictures developed and put into software?

11:23:32AM17 A. Correct.

11:23:33AM18 Q. Did you do that yourself?

11:23:35AM19 A. It does it automatically.

11:23:36AM20 Q. You ran the software --

11:23:38AM21 A. Correct, I did, I ran the machine.

11:23:40AM22 Q. I'm going to show you Government's proposed 10. Is that a
23 disk that you initialed and produced?

11:23:47AM24 A. Yes, sir, that's mine.

11:23:49AM25 MR. WILLIAMS: Your Honor, I think there's an earlier

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1 objection, but I'll move to admit subject to any renewed
2 objection by defense counsel.

11:23:57AM 3 THE COURT: Government 10. Is there an objection?

11:23:58AM 4 MR. BRUCK: Yes, the Court has resolved the
5 objections in docket entry 499.

11:24:05AM 6 THE COURT: I'm looking at it as we speak.

11:24:08AM 7 MR. BRUCK: We'd also like to say that your position
8 taken there has to do -- we'd like our objection to
9 incorporate -- Well, actually, may I approach, Your Honor?

11:24:22AM10 THE COURT: Sure.

11:24:39AM11 (Following discussion held at side bar.)

11:24:40AM12 MR. BRUCK: I want to make sure our objections relate
13 to the fact that in objecting to the prejudicial effect of
14 this technology in this case, we are not limiting ourselves to
15 the images themselves, but to the way that introducing -- in
16 other words, that the images need to be assessed under
17 Rule 403, in light of the fact that they have this "you are
18 there" quality. So on appeal, we feel that the images
19 themselves should be reviewed in the preserved form in which
20 they were shown, so that the jury -- so that any reviewing
21 court -- I realize the Court has already ruled -- will be able
22 to assess the emotional impact of the photographs in the way
23 that they were actually viewed in the court. Because we think
24 that the experience of sort of replicating the experience of
25 the responding officers, which is really what this does, has

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1 an emotional impact which is greater than the images
2 themselves.

11:25:47AM 3 MR. WILLIAMS: Your Honor, you ordered us to use a
4 certain software. We are doing that. So I will conditionally
5 admit 10, then replace it with the video that is created with
6 the recording device.

11:25:57AM 7 THE COURT: Because I had that concern.

11:25:59AM 8 MR. WILLIAMS: And we're doing that, Your Honor.

11:26:00AM 9 THE COURT: Very good. I think what we'll do is I
10 want to lead you up to showing it, then let's take our morning
11 break.

11:26:06AM12 MR. WILLIAMS: We're just going to introduce it.
13 But -- It's going to happen pretty soon.

11:26:11AM14 THE COURT: Why don't you signal me.

11:26:14AM15 MR. WILLIAMS: Judge, what we plan to do, so you
16 know, is use the recording information. There's a glitch with
17 that, we're not going to send it to the jury, so it will be
18 demonstrative, if it is not.

11:26:23AM19 THE COURT: Very good.

11:26:28AM20 (Side bar discussion concluded.)

11:26:28AM21 BY MR. WILLIAMS:

11:26:35AM22 Q. Agent, I think you said this was a copy of the
23 presentation that you put on a disk?

11:26:40AM24 A. Correct.

11:26:40AM25 MR. WILLIAMS: And I'm going to conditionally admit

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1 that, Your Honor, as Government's 10. I'm understanding we're
2 going to record the actual presentation in the courtroom and
3 then use the courtroom presentation for purposes of this case?

11:26:51AM 4 THE COURT: And that is admitted over the defendant's
5 objections, which are noted.

11:26:56AM 6 MR. BRUCK: Thank you.

11:26:56AM 7 MR. WILLIAMS: Your Honor, just so you know, we're
8 using a recording device on our screen capture, so he may need
9 to help me.

11:27:07AM10 THE COURT: I want you to know the rule of law in the
11 courtroom, if technology can go wrong, it will, so we'll all
12 be patient with this.

11:27:13AM13 BY MR. WILLIAMS:

11:27:23AM14 Q. And if you could, Agent Tallon, explain what we're looking
15 at or the jury is looking at for purposes of this software,
16 starting from the top right, there's like an overview with a
17 bunch of red dots on it. What's that show?

11:27:39AM18 A. Correct. Up in the top right-hand corner you'll see that
19 there -- there's several red dots. Each one of those little
20 red dots is where I placed the scanner in the scene. So each
21 one of those dots is representative of one scan. The --

11:27:57AM22 Q. Go ahead.

11:27:58AM23 A. The cone angle that you see, the blue cone angle that's
24 coming out from that -- the highest red dot, that represents
25 the viewing angle that you're looking at. So if you were to

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1 go to the bottom of this where the photo is, and scroll around
2 the photo, you'll notice that the little blue triangle will
3 move, depending where you're looking.

11:28:22AM 4 Q. So the cone, that blue cone is showing the scope of vision
5 that the -- I guess the lower panel shows as the actual
6 depiction?

11:28:30AM 7 A. Correct.

11:28:31AM 8 Q. So if I move that around, the cone moves as well?

11:28:35AM 9 A. Correct.

11:28:36AM10 Q. I want to ask you about this shadow. What's that showing?

11:28:40AM11 A. That is the FARO in the tripod.

11:28:44AM12 Q. The light coming from behind it?

11:28:47AM13 A. That's from a streetlight.

11:28:49AM14 Q. And if I move that around, it effectively shows, what's
15 that, what's --

11:28:58AM16 A. Yes.

11:29:02AM17 Q. And that can be -- that can zoom in and out, correct?

11:29:05AM18 A. Correct, you can use your mouse wheel or the plus minus on
19 the left-hand side.

11:29:10AM20 Q. If I click over the actual -- or if I toggle over the
21 actual spot, what is that sort of red area that's being shown
22 the spot?

11:29:18AM23 A. That's showing the data that the scanner collected, the
24 areas in which the data was collected from the scanner.

11:29:24AM25 Q. And the photograph obviously has some limitations, right,

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1 it can't see behind the photograph that is used here, doesn't
2 see behind anything, just shows what any normal photograph
3 would do?

11:29:37AM 4 A. Correct.

11:29:37AM 5 Q. I want to ask you briefly about these other pins that come
6 up. For instance, I'm toggling over what looks like 002,
7 outside 002. What is that pin and what is it picking up?

11:29:52AM 8 A. Basically that pin is another scan. So it's an easy way
9 to jump from one scan to another.

11:30:00AM10 Q. So if I double click on that, that will take me to that
11 point in the scan?

11:30:12AM12 A. Correct, it will take you to that point in space, then
13 show you that panoramic image.

11:30:13AM14 Q. As far as the other points that may be inside or in
15 different parts of the building, those aren't restricted by
16 walls, meaning that the pins that are seen there may be pins
17 that are inside the building?

11:30:26AM18 A. That is correct.

11:30:27AM19 Q. And that's true for this overhead view in the upper right,
20 that shows where all the pins were located within and outside
21 the building?

11:30:35AM22 A. Correct, sir.

11:30:36AM23 Q. And then explain the upper left panel and what that
24 represents relative to those pins.

11:30:42AM25 A. Those are just thumbnail images, they're just a brief

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1 preview of each scan, and it's another quick way to jump to
2 another scan.

11:30:52AM 3 Q. And can I also, by hiding this expand button, open up any
4 one of those windows?

11:30:58AM 5 A. Correct, you can make them all, for the lack of a better
6 word, full screen.

11:31:03AM 7 Q. So I'm going to go to the full screen, and what does this
8 auto rotation do?

11:31:09AM 9 A. It will start rotating it.

11:31:12AM10 Q. I'm going to press that.

11:31:15AM11 A. It's just kind of an eye level -- well, I say eye level,
12 but it's the level of the scanner. Spins around 360 degrees.

11:31:28AM13 Q. Would that be true for every one of the scans?

11:31:31AM14 A. Correct.

11:31:33AM15 Q. I'll let that go through. So that can give you a
16 360-degree image of the location around the scan point?

11:32:14AM17 A. Correct.

11:32:14AM18 Q. As far as the ability to go up and down vertically, does
19 it take a picture that's up in the air as well as on the
20 ground?

11:32:25AM21 A. It does.

11:32:26AM22 Q. So it could also toggle up and down and pick up items
23 either on the floor or on the ceiling?

11:32:34AM24 A. Correct, except for that white spot, which is where the
25 tripod is, it can't see underneath itself.

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11:32:39AM 1 Q. So there's a limitation on the ground, meaning it can't
2 take a picture underneath itself.

11:32:43AM 3 A. Correct.

11:32:45AM 4 Q. And then within that context, there's also, I think you
5 said, a zoom factor, which if I hit the plus button, will zoom
6 in as well?

11:32:55AM 7 A. Correct.

11:32:56AM 8 Q. Is there a distortion on the outside edges, if you zoom
9 out too far?

11:33:01AM10 A. It will, it will give you effectively what's called a fish
11 eye look.

11:33:06AM12 Q. And that's just a function of typical photography when
13 it's 360-degree --

11:33:11AM14 A. Correct, when you have a panoramic image and zoom out that
15 far, you will get that.

11:33:18AM16 Q. And so if Special Agent Burke wanted to go through the
17 crime scene, she could go pin to pin and identify items in the
18 church based on photos you took with the FARO scanner?

11:33:35AM19 A. Yes, sir.

11:33:35AM20 Q. Apart from your work inside the building taking those
21 scans and those photographs, did you have any other role in
22 the case?

11:33:43AM23 A. Purely helping with handing bags and any trivial means
24 that I could help Agent Burke.

11:33:55AM25 Q. About how long did it take you to take all the scans

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1 inside the building?

11:34:00AM 2 A. Inside and outside it was about three hours.

11:34:04AM 3 Q. And all of that has been distilled into this web share
4 software that you've tentatively admitted to court?

11:34:11AM 5 A. Yes, sir.

11:34:17AM 6 Q. And then finally, you reviewed all of those scans on this
7 disk for presentation, correct?

11:34:22AM 8 A. Yes, sir.

11:34:23AM 9 Q. And does it fairly and accurately represent what you saw
10 there that night when you were there yourself?

11:34:28AM11 A. Yes, sir.

11:34:31AM12 Q. They're photographs of what you saw personally?

11:34:32AM13 A. Yes, sir.

11:34:38AM14 MR. WILLIAMS: I have no further questions from this
15 agent, Your Honor.

11:34:40AM16 THE COURT: Very good. Cross-examination?

11:34:45AM17 MR. BRUCK: No questions.

11:34:47AM18 THE COURT: Thank you, sir, you may step down.

11:34:54AM19 Ladies and gentlemen, it's time for our morning break.
20 Escort them back to the jury room.

11:35:01AM21 (Jury excused.)

11:35:34AM22 THE COURT: Mr. Richardson, is the FARO exhibit going
23 to be the next?

11:35:40AM24 MR. RICHARDSON: Mr. Williams and that will be next.

11:35:42AM25 MR. WILLIAMS: Your Honor, there is a good amount of

1 items prior to that, but it will be in the next witness.

11:35:47AM 2 THE COURT: Okay. And how long will it take him
3 to -- I'm just trying to give the family some warning,
4 Mr. Williams.

11:35:53AM 5 MR. WILLIAMS: I think maybe 20 minutes into her
6 testimony we'll probably get to the -- I would say between ten
7 to 20 minutes into the testimony, we'll get to the FARO.

11:36:01AM 8 THE COURT: Let me just say again that I have, in the
9 course of addressing evidentiary issues, Mr. Bruck raised
10 those, that we address thoroughly, I have seen these images.
11 And for family members and others, it may be very upsetting.
12 And we have a victims' room and we have areas we can go
13 that -- for folks who this may be too much to see, and there's
14 no shame in stepping outside for this.

11:36:35AM15 So with that, we'll take about a ten-minute break. Thank
16 you.

11:36:38AM17 (A recess was held at this time.)

11:36:38AM18 (Jury not present.)

11:52:37AM19 MS. PAAVOLA: Your Honor, if I may, before this next
20 witness testifies, we have objections to several exhibits that
21 we believe may be coming in, and it might be easier to take
22 those up now.

11:52:47AM23 THE COURT: I'm sorry, tell me what your objection
24 is.

11:52:50AM25 MS. PAAVOLA: I believe Exhibits 26 through 112 are

1 coming in through this witness, and we have previously filed
2 objections in motions in limine to 13 of those photographs.

11:53:04AM 3 THE COURT: Let me understand exactly -- we're
4 talking about images, are we talking about something contained
5 within the FARO?

11:53:12AM 6 MS. PAAVOLA: These are photographs in addition to
7 the FARO.

11:53:15AM 8 THE COURT: Okay. So we're now -- I want to make
9 sure I understand, you're talking about photographs. Okay.
10 And which are the photographs? What numbers are they?

11:53:25AM11 MS. PAAVOLA: They are numbers 36, 56, 60, 69, 82,
12 84, 85, 91 through 95, and 96, which is not a photograph, it
13 is an item.

11:53:53AM14 THE COURT: Those are the ones you're objecting to?

11:53:55AM15 MS. PAAVOLA: Yes, sir.

11:53:55AM16 THE COURT: Mr. Williams, can I see those?

11:53:58AM17 MR. WILLIAMS: We had filed a written response that
18 was --

11:54:01AM19 THE COURT: But I need to see the images. It's hard
20 to, as they say, a picture of a thousand words.

11:54:08AM21 MR. WILLIAMS: Would you like me to hand up the
22 exhibits?

11:54:10AM23 THE COURT: Yes, just those, if you can do those
24 numbers, or I can -- is there a way I can look at it, that
25 would be fine too, I can find them.

11:55:20AM 1 MR. WILLIAMS: Your Honor, just to be clear, we have
2 told the defense we do not intend to offer 96, which is a
3 physical item, otherwise depicted in the photo in 95.

11:55:32AM 4 THE COURT: So the Government is not offering 96.

11:55:36AM 5 MR. WILLIAMS: That's correct, Your Honor.

11:55:37AM 6 THE COURT: Okay.

11:55:39AM 7 MS. PAAVOLA: Also for the record, Your Honor, we
8 previously objected to Exhibit 80, but the Government has no
9 redacted it, and we no longer have an objection to that.

11:55:48AM10 THE COURT: All right, Exhibit 36. What we're going
11 to do is I'm going to have defense counsel tell me the
12 objection, then I want to hear from Government counsel about
13 their response to it.

11:56:03AM14 MS. PAAVOLA: Your Honor, I may be able to shorten
15 this a bit. The nature of our objections to all these
16 photographs is that they are -- the objection's under
17 Rule 403. The exhibits all depict very graphic images, and we
18 believe they are cumulative, particularly given the large
19 amount of additional photographs that the Government intends
20 to introduce and we have not objected to, as well as the
21 complete FARO cam which is now coming in over our objection.

11:56:34AM22 THE COURT: You have to understand, however, that I
23 have to rule on 403, the probative value of it is an important
24 element, so I need to examine each one of these --

11:56:44AM25 MS. PAAVOLA: Okay.

11:56:44AM 1 THE COURT: -- to make a relevance determination,
2 then to make a 403 balancing determination.

11:56:49AM 3 Okay. 36, Mr. Williams, do you want to tell me about that
4 image.

11:56:55AM 5 MR. WILLIAMS: Yes, Your Honor, that captures the
6 perspective of an item relative to -- I believe relative to
7 where a victim was located, Mr. Dan Simmons. That angle was
8 not captured by the FARO scan, so it is certainly indicative
9 of intent, and where the defendant --

11:57:13AM10 THE COURT: Is that item, is that something that the
11 defendant allegedly left?

11:57:17AM12 MR. WILLIAMS: Yes, Your Honor, I think it's the pack
13 that's around his waist when he walked into the church, where
14 he stored gun and magazines.

THE COURT: And it tells you what?

11:57:55AM 1 THE COURT: I'm satisfied. 56 overruled. What is
2 Exhibit 60?

11:58:02AM 3 MR. WILLIAMS: That's a photo of a fragment that we
4 intend to introduce as a physical item, but again, because
5 the --

11:58:09AM 6 THE COURT: A fragment of a bullet?

11:58:12AM 7 MR. WILLIAMS: A jacket from a bullet, correct. And
8 again, so the witness can explain what the evidence was, some
9 minute pieces are necessary, and obviously its location near
10 blood is indicative of the defendant's intent.

11:58:25AM11 THE COURT: 60 overruled.

11:58:28AM12 MS. PAAVOLA: Your Honor, if I could just add one
13 point to that. The photographs that the Government is arguing
14 show positioning relative to the victim's body, the ones we've
15 looked at so far do not include any victims' bodies, so I
16 don't understand how it shows you where it is --

11:58:47AM17 THE COURT: It's showing blood, which is near
18 connected to a body; that would be the notion. So overruled.

11:58:53AM19 Okay. Next one I have is 84. Where is 69 and 82?

11:59:06AM20 MR. WILLIAMS: I believe we passed up 69.

11:59:08AM21 THE COURT: May not be in the order you gave them.
22 It's not in order, thank you very much. And what is this?

11:59:23AM23 MS. PAAVOLA: 69, the nature of the objection is
24 simply that it depicts first responder material which were
25 left after the crime scene had been cleared.

12:00:47PM 1 MR. WILLIAMS: Shows damage under a table from
2 gunfire that would have been captured by the FARO scan.

12:00:52PM 3 THE COURT: 82 is overruled. 84? What does that
4 show us?

12:01:02PM 5 MR. WILLIAMS: The same, Your Honor, shows damage to
6 the underside of a table caused by gunfire, and again, that
7 photo, I believe proximity to a victim.

12:01:10PM 8 THE COURT: It does. Anything further on that?

12:01:14PM 9 MS. PAAVOLA: No, Your Honor, the objection is simply
10 the graphic nature of the photograph.

12:01:17PM11 THE COURT: 84 is overruled. Next one?

12:01:21PM12 MS. PAAVOLA: Same objection.

12:01:22PM13 THE COURT: 85, what does this demonstrate?

12:01:26PM14 MR. WILLIAMS: Your Honor, that shows bullet holes in
15 a tablecloth, indicating that the defendant shot people while
16 they were lying under the table.

12:01:33PM17 THE COURT: I do see a glove in there, single glove,
18 and seems an isolated matter. And the more important thing is
19 what it depicts, so I overrule as to 85.

12:01:48PM20 MR. WILLIAMS: Your Honor, I'll have the witness
21 authenticate and explain that there were items left behind
22 by --

12:01:54PM23 THE COURT: Yes.

12:01:55PM24 MR. WILLIAMS: -- treaters.

12:01:56PM25 THE COURT: 91.

12:01:58PM 1 MR. WILLIAMS: Your Honor, there was a series of
2 photos, starting with 91 through, I believe 95, which I'm
3 going to call -- that show floor strikes, which are markings
4 in the tile consistent with a round being fired from above.
5 And obviously they're relevant to the defendant's positioning,
6 his malice, and the fact that he was shooting people while
7 they were on the ground.

12:02:19PM 8 THE COURT: I've got 91 and 95; I don't have the ones
9 in between, 92, 3 and 4.

12:02:31PM10 MR. WILLIAMS: Sorry, Your Honor, I'll get those.
11 That's 92, 93 and 94, Your Honor?

12:02:38PM12 THE COURT: Yes. So again, tell me what 91 is
13 showing me.

12:02:51PM14 MR. WILLIAMS: It is a mark in the floor caused by --

12:02:54PM15 THE COURT: A bullet.

12:02:56PM16 MR. WILLIAMS: That's what the testimony will be,
17 Your Honor.

12:02:58PM18 THE COURT: And 91 is overruled. 92.

12:03:03PM19 MR. WILLIAMS: Same thing, Your Honor.

12:03:05PM20 THE COURT: 92 is overruled. 93? Same thing?

12:03:11PM21 MR. WILLIAMS: Same thing.

12:03:12PM22 THE COURT: Overruled. There is obviously evidence
23 of blood, but it's adjacent to bullet holes, and I think it's
24 relevant for that reason. 93 is overruled. 94 overruled.
25 95, what is that package?

BRITTANY BURKE - DIRECT EXAMINATION

1 having been duly sworn, testified as follows:

12:06:34PM 2 DIRECT EXAMINATION

12:06:34PM 3 BY MR. WILLIAMS:

12:06:39PM 4 Q. If you could tell the jury your name.

12:06:40PM 5 A. My name is Brittany Burke.

12:06:42PM 6 Q. Where do you work?

12:06:43PM 7 A. I am currently employed with the Tennessee Bureau of
8 Investigations.

12:06:48PM 9 Q. What is the Tennessee Bureau of Investigations?

12:06:50PM10 A. The Tennessee Bureau of Investigations is the state law
11 enforcement agency for the State of Tennessee.

12:06:56PM12 Q. What did you do before you worked with TBI?

12:07:00PM13 A. Before I worked with TBI, I was employed with the crime
14 scene unit at the South Carolina Law Enforcement Division here
15 in South Carolina.

12:07:07PM16 Q. Why did you go from SLED to Tennessee?

12:07:10PM17 A. Tennessee was where I grew up, so I just moved back closer
18 to my family and back closer to home.

12:07:16PM19 Q. What did you do at SLED?

12:07:17PM20 A. I worked as a special agent in their crime scene unit.

12:07:22PM21 Q. Do you have any qualifications, prior to working at SLED,
22 to sort of get into that work or to do that job?12:07:28PM23 A. Prior to working at SLED I was a college student, I was --
24 I did some interning in law enforcement with the -- but that
25 was my first actual job with law enforcement there.

BRITTANY BURKE - DIRECT EXAMINATION

12:07:38PM 1 Q. Where did you go to college?

12:07:40PM 2 A. The University of Tennessee Chattanooga.

12:07:43PM 3 Q. What year did you graduate?

12:07:44PM 4 A. In 2012.

12:07:46PM 5 Q. When you graduated from college, you said you started with
6 SLED?

12:07:50PM 7 A. That is correct.

12:07:50PM 8 Q. Where did you start when you went to SLED or what was your
9 first job there?

12:07:54PM10 A. My first job there was as a special agent in the crime
11 scene unit.

12:07:57PM12 Q. Do you have any special training or did you receive any
13 special training to become a crime scene investigator?

12:08:02PM14 A. I did, I went through an in-house training course while at
15 SLED that included latent prints, blood splatter analysis, how
16 to properly work and document a crime scene, along with other
17 aspects. I also received outside training in blood splatter
18 analysis and footwear and tire tread examination as well.

12:08:27PM19 Q. About how many hours of training would you say you had at
20 SLED for your position as a crime scene investigator?

12:08:35PM21 A. Well, into the hundreds of hours of training.

12:08:38PM22 Q. And as far as field work, how many cases would you say you
23 worked on while you were a crime scene investigator while you
24 were at SLED?

12:08:47PM25 A. Well over 150.

BRITTANY BURKE - DIRECT EXAMINATION

12:08:49PM 1 Q. And with Tennessee Bureau of Investigation, about how many
2 there?
12:08:54PM 3 A. I have had, as far as crime scenes, I believe about three
4 there so far.
12:08:59PM 5 Q. When did you start with TBI from SLED?
12:09:02PM 6 A. I started February of this year, so February 2016.
12:09:09PM 7 Q. If you could, explain to the jury what crime scene
8 investigating consists of. What do you do?
12:09:18PM 9 A. Crime scene investigating consists of going into the crime
10 scene, documenting that crime scene, which includes notes,
11 schedules, photographs, and the -- identifying items of
12 evidence, which can be pretty much anything, but identifying
13 that and collecting it and packaging it so that it can be
14 taken to the laboratory or wherever it needs to be taken for
15 its examination.
12:09:42PM16 Q. When you say crime scene, what type of places do you
17 respond to? What is the sort of range of crime scene
18 investigations?
12:09:50PM19 A. A crime scene can occur anywhere. It can be on a street,
20 in a field, in a house, in a place of business, it can be
21 absolutely anywhere.
12:10:03PM22 Q. Can you explain to the jury how SLED interacts with other
23 agencies, whether they be state or federal?
12:10:10PM24 A. Yes, SLED is requested by -- there will come requests from
25 other agencies, which means that any of the agencies can call

BRITTANY BURKE - DIRECT EXAMINATION

1 and say, hey, we need your help, can you send some people to
2 help assist us in this matter. And then from there they can
3 tell what type of assistance they need. So in order for me to
4 get called, they would say we have a crime scene, we need
5 somebody to come help us process this crime scene, and that's
6 how I would get called to respond to something.

12:10:38PM 7 Q. As the crime scene investigator, in your experience, what
8 resources does SLED offer that other agencies may lack?

12:10:46PM 9 A. We have numerous personnel that can help, the amount of
10 the equipment that we have, the equipment -- the types of
11 equipment that we have, including the FARO, are just some of
12 the things that we can offer there.

12:11:03PM13 Q. Do you work with agencies that may not have crime scene
14 offices or investigators?

12:11:07PM15 A. Yes. Very often.

12:11:09PM16 Q. Does the City of Charleston have a fairly built up crime
17 scene unit?

12:11:15PM18 A. Yes, they do.

12:11:16PM19 Q. But you sometimes help bigger agencies as well, because of
20 the equipment or maybe the personnel you have, in major cases?

12:11:22PM21 A. That is correct.

12:11:24PM22 Q. Do you often work with federal agencies as well?

12:11:27PM23 A. Yes, we have worked with several federal agencies in the
24 past.

12:11:32PM25 Q. And is that interaction similar?

BRITTANY BURKE - DIRECT EXAMINATION

12:11:34PM 1 A. Yes, it's just -- works just the same.

12:11:38PM 2 Q. So I want to ask you about the case you were involved with
3 that you're here to testify on today. How did you first get
4 involved in this case?

12:11:48PM 5 A. I was involved -- first got involved in this case, I
6 received a call from my lieutenant who informed me -- it was
7 about 10:00 o'clock at night -- she informed me that there had
8 been a shooting in which multiple victims were present here in
9 Charleston. And she told me just be on stand-by. And then at
10 1:00 o'clock in the morning on June 18th she called me and
11 said, hey, there's been a shooting, it's in Charleston, we've
12 got nine victims, and I'm going to need you to respond to
13 that. And so that was how I became involved.

12:12:26PM14 Q. When the case -- when you get that phone call, how is it
15 determined who is the lead or who is supervising your part of
16 the investigation, meaning the crime scene processing?

12:12:37PM17 A. So the way that it works is we work in teams of two. And
18 each team has a schedule, so it rotates which team is on call.
19 And then it's up to that team to work it out, have who is the
20 lead. Normally what happens is one person will take the lead
21 on the first case, then the next case that comes in, the next
22 person takes the lead. So in this case we had a case earlier
23 in the week where my partner had been the lead on a case, so
24 this time it was my turn to be lead on the case.

12:13:10PM25 Q. Who was your partner?

BRITTANY BURKE - DIRECT EXAMINATION

12:13:11PM 1 A. Agent Tiffany Hezel.

12:13:15PM 2 Q. As far as the amount of resources you were dispatched or
3 deployed, who decides how many people show up?

12:13:24PM 4 A. That is decided by -- typically by our lieutenant, but it
5 is -- there's also the responsibility of the agent on scene,
6 if they need more help, then we can always call and request
7 more help as needed as well.

12:13:38PM 8 Q. Did you make an initial determination of how many agents
9 were needed when you got that phone call?

12:13:44PM10 A. No, when I got the phone call, my lieutenant told me that
11 she was sending me, and not just a partner that I always
12 worked with, but other people as well.

12:13:55PM13 Q. Who were the other people that were sent?

12:13:58PM14 A. The other people that responded were Agent Dawn Claycomb,
15 Agent Tre Tallon and Agent Patrick Oliphant and Haley Quam.

12:14:08PM16 Q. So that's four plus you and Tiffany?

12:14:11PM17 A. That's correct.

12:14:13PM18 Q. Is that a normal number to dispatch to one case?

12:14:16PM19 A. No, it would be very rare for us to dispatch that many
20 people to one case.

12:14:20PM21 Q. And from what your experience is, why would that many
22 crime scene agents be involved?

12:14:25PM23 A. That many crime scene agents would be involved due to the
24 nature of the scene or the scope of the case. The only time
25 we would -- we typically -- dispatch that many people is if

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1 there's a scene that has a large amount of evidence, victims,
2 or if it spans -- if it were to span a large area outside
3 would be the only reasons.

12:14:47PM 4 Q. You said the nature and the scope of the criminal
5 activity, what was it about the nature and scope that
6 necessitated it?

12:14:54PM 7 A. Well, the amount of victims that we had, as well as the
8 reports of the amount of evidence that was related back to us,
9 in Columbia, that's where we were based out of, telling us
10 what we had here in Charleston dictated how many people we
11 sent.

12:15:12PM12 Q. Who was in charge of that group of people?

12:15:14PM13 A. I was in charge of the group of people that night.

12:15:18PM14 Q. And what does it mean to you to be in charge of that
15 group, how do you supervise or coordinate those other crime
16 scene investigators?

12:15:26PM17 A. What I do, if I have something where we need to supervise
18 or coordinate that many agents, is determine what is there and
19 what needs to be done, and then those responsibilities are
20 delegated out to other agents, and they're done -- while I'm
21 making sure everything is done, one agent can be doing one
22 particular task.

12:15:50PM23 Q. And as the lead investigator, would you have delegated
24 tasks to other crime scene investigators?

12:15:55PM25 A. Yes, I would have delegated tasks such as labeling

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1 evidence or collecting evidence or taking photographs to
2 another agent, so that I can make sure that all the tasks were
3 done while somebody else was actually completing that
4 particular task.

12:16:08PM 5 Q. And in this case, at least at the church, as you
6 coordinated or delegated, did you also directly oversee the
7 work of the other agents?

12:16:17PM 8 A. Yes, I did.

12:16:19PM 9 Q. I want to ask you, you mentioned you got called in, did
10 you respond then to the church?

12:16:24PM11 A. Yes, I did. I got called at approximately 1:00 a.m., and
12 myself and Agent Claycomb responded via helicopter and arrived
13 approximately 3:00 a.m.

12:16:38PM14 Q. SLED has a helicopter?

12:16:39PM15 A. Yes.

12:16:40PM16 Q. Is it used very often?

12:16:41PM17 A. It is used occasionally, if there's somewhere that is far
18 enough away that warrants it and we can get there. If we can
19 get there quicker in a helicopter and we need to get there
20 quicker, we will take it.

12:16:55PM21 Q. Had you taken it before?

12:16:56PM22 A. Not to a scene, no.

12:16:58PM23 Q. So you and the other co-case agent were transported, I
24 guess, to Charleston?

12:17:04PM25 A. Yes, me and one of the other agents were transported. The

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1 rest of the agents drove their vehicles, because of all of our
2 equipment is in the vehicle, so that we had all of the
3 equipment with us as well.

12:17:17PM 4 Q. And when you arrived to Charleston, where did you go?

12:17:21PM 5 A. When I arrived in Charleston I went to the Emanuel AME
6 Church.

12:17:27PM 7 Q. Had you been there before?

12:17:29PM 8 A. No, I had not.

12:17:30PM 9 Q. Were you -- are you familiar with Charleston at all?

12:17:32PM10 A. Not besides coming down for a weekend vacation and walking
11 around, that's about it.

12:17:39PM12 Q. So when you arrived at the church, what was your initial
13 impression as a crime scene investigator and a supervisor?

12:17:47PM14 A. My -- well, when I first arrived I stuck outside and
15 talked with agents that are already there and already been in.
16 But my initial response was that something large had happened,
17 because there were multiple agencies on scene, multiple
18 emergency vehicles, what was called -- what we call command
19 center, which is kind of like a mobile home that's a mobile
20 office that can be brought and set up so we have somewhere to
21 work, there was set up outside, and so I knew that something
22 large scale had to have happened at that point.

12:18:27PM23 Q. And were you already assigned as the crime scene
24 investigator, or had that not been determined yet?

12:18:33PM25 A. I was already assigned as the lead crime scene

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1 investigator prior to us leaving. And then when I got there I
2 was -- it was unsure on the way there if I was going to be
3 assisting or SLED would be taking the lead on the case. When
4 I got there, I was told that SLED would be taking the lead on
5 the crime scene investigation at that point.

12:18:54PM 6 Q. So explain that, if you can, to the jury. You mentioned a
7 little bit sort of cooperative efforts with other agencies,
8 whether it be the city police department or the FBI. Were
9 tasks in this case divided up according to resources?

12:19:09PM10 A. Yes, tasks were divided, but according to resources, I
11 believe that that was made by my supervisors and at a higher
12 level than me. Those decisions were made, and so tasks were
13 kind of -- there was a lot to do, tasks were delegated where
14 people were needed.

12:19:31PM15 Q. So what was delegated specifically to you and your team?

12:19:34PM16 A. The crime scene at the church was delegated to us.

12:19:38PM17 Q. So when you arrived and were then given that task, what
18 was your first impression of the church and what would need to
19 be done?

12:19:48PM20 A. Well, the first thing that we start doing is taking
21 overall photographs of the outside of the church. The outside
22 of the church just looked like the outside of a church you
23 would expect it to look. But then we began moving inside and
24 seeing numerous items of evidence and all. And so we knew all
25 that was going to have to be documented and collected and

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1 photographed and sketching and notes and all the things that
2 we normally do were going to have to be done there.

12:20:18PM 3 Q. Let me back up a little bit. When you first show up, do
4 you start taking photographs or do you do sort of an overall
5 walk through of the area to assess it for resources, needs?

12:20:28PM 6 A. We walk through and assess the area, and then as we -- as
7 we do that, we're taking -- we'll take photographs of the --
8 as well. But we walked through to make sure that we know
9 where we can walk, so that there's items of evidence, we know
10 that they're there prior to us walking through trying to take
11 photographs as well.

12:20:47PM12 Q. So tell the jury what your initial impression was in that
13 first walk through. What you saw just generally.

12:20:57PM14 A. When I started the initial walk through inside the church,
15 my initial impression was that it was very hectic. We had
16 multiple victims, multiple items of evidence that there were
17 evidence of gunshots throughout the church, it was actually --
18 mostly contained in one room, but you could see them in walls,
19 in ceilings and things like that nature as well. So it was
20 very overwhelming the amount of evidence that was there and
21 that would have to be collected at that time.

12:21:35PM22 Q. Let me ask you about that first impression with regard to
23 prior activity that may have occurred. Do you have any
24 experience in identifying whether a scene has or has not been
25 disturbed prior to your arrival?

BRITTANY BURKE - DIRECT EXAMINATION

12:21:49PM 1 A. Yes, I did.

12:21:50PM 2 Q. What type of things do you look for or identify to
3 determine whether something has been disturbed or moved on a
4 crime scene?

12:21:57PM 5 A. There are many different things you can look for. You can
6 look for if there is blood present on the scene, you can look
7 and see if the -- if there is movement through that blood, or
8 if something has been moved that is not consistent with where
9 the blood is. Same with dirt or dust or anything like that.
10 And then as well as just what the scene looks like, and does
11 that make sense for what you're seeing, like does the -- are
12 there bullet holes somewhere on a wall, but you have to move a
13 cabinet to get to see them, and there's no bullet hole in the
14 cabinet. Things like that, that make things make sense how
15 they're supposed to look.

12:22:44PM16 Q. And when you arrived, were you debriefed by the local
17 officers about what had occurred regarding the crime scene and
18 its security?

12:22:52PM19 A. Yes, I was. I was -- I spoke with Charleston police
20 department, who stated that they had been through the church,
21 that the building had been cleared to make sure that there was
22 nobody in it. And they informed me that there was some damage
23 to one of the doors in the church, that they had broken
24 through the door to make sure that nobody was in that office,
25 and the door had been locked prior to them breaking through

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1 the door.

12:23:21PM 2 Q. How about the use of any kind of rescue or emergency
3 services?

12:23:28PM 4 A. Yes, I believe leads had been placed on all of the victims
5 to determine if they had had a pulse. I was told that
6 emergency rescue personnel had been there previously and had
7 checked all the victims for signs of life.

12:23:42PM 8 Q. And what's a lead?

12:23:44PM 9 A. I call it a lead, it's a little sticky pad that sticks on
10 that they then attach to their machine to that tells me if
11 there are any signs of life present.

12:23:53PM12 Q. From your, at least initial assessment, and maybe later
13 assessment, did it appear that the rescue services had moved
14 any of the bodies much, if at all?

12:24:01PM15 A. There was evidence that they had moved some of the bodies.
16 There were some that were -- that did appear that they were in
17 their original position, but clothing of some of the victims
18 had been cut, which signified that they had moved the body in
19 order to determine if there was any signs of life.

12:24:21PM20 Q. And is that -- I'm going to guess that if a fireman or an
21 EMT is running through there, they could disturb other things,
22 kick a shell casing, step in blood, was there any indications
23 of that from the initial crime scene?

12:24:35PM24 A. There -- everything was so chaotic as far as the placement
25 of cartridge casings and all. It would be hard to tell if

BRITTANY BURKE - DIRECT EXAMINATION

1 something had been kicked around. However, it is definitely
2 possible. It is possible, and their first priority is to
3 determine there is nobody else in the building that causes a
4 threat to somebody, and that their -- and to make sure that
5 anybody that needs medical attention gets that medical
6 attention. So that's their first priority, so it's very
7 possible that things could get kicked during that.

12:25:05PM 8 Q. When you say chaotic, you mean that there was a lot of
9 activity or that there was a lot of evidence?

12:25:11PM10 A. I mean that there was a lot of evidence and it was spread
11 throughout the room, it was not in a central location, as if
12 there had been movement. During the event that took place.

12:25:25PM13 Q. So there was evidence spread around. When you say -- what
14 do you mean by evidence spread around?

12:25:30PM15 A. There were cartridge cases and magazines and projectiles
16 is mainly what I mean by evidence, and they were all around
17 the room, they weren't in one centralized location. The
18 magazines and the cartridge cases were around the whole room,
19 which was -- which is indicative of somebody that would be
20 moving as they were shooting or changing these magazines. And
21 so there was a lot of movement and chaos through that portion
22 of it.

12:25:56PM23 Q. So your word chaos is reflective of what you perceived had
24 happened in the room, not what was going on when you were
25 there?

BRITTANY BURKE - DIRECT EXAMINATION

12:26:04PM 1 A. I would call it indicative of both.

12:26:06PM 2 Q. Okay. So let me ask you, you say that you did a first
3 general walk through of the scene. Did anything jump out at
4 you, apart from what you said, which was it was going to take
5 a lot of crime scene processing?

12:26:21PM 6 A. Aside from the sheer amount of evidence and the number of
7 victims that were there, just the -- just the -- there was a
8 black Messenger bag that was there on the floor, and a belt
9 that stood out as being out of place. But other than that,
10 there was not anything that jumped out particularly.

12:26:44PM11 Q. Is there any -- what is a challenge when you're dealing
12 with that volume of evidence, what is -- how do you account
13 for that specific challenge, if there is any?

12:26:53PM14 A. The challenge is that the time that it takes to just
15 document and collect it. You want to be thorough, and you
16 have to label each item and then photograph it and then
17 collect it and document it at that point in time, would be the
18 main challenge there.

12:27:08PM19 Q. Did you feel like you had the adequate personnel and
20 people on hand to get through that process, albeit a long one?

12:27:14PM21 A. Yes, we did.

12:27:15PM22 Q. So explain to the jury, if you can, what the assignments
23 were for the team members that responded to process that crime
24 scene.

12:27:24PM25 A. So Agent Claycomb, Dawn Claycomb, was taking photographs,

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1 and Agent Haley Quam was helping me identify evidence within
2 the scene. They both were then sent and they cleared the
3 scene early, because we -- it became apparent to us that we
4 were going to have autopsies the next morning. So they both
5 handed off their job to somebody else. Agent Claycomb handed
6 off taking photographs to Agent Oliphant, and he continued
7 that, and Agent Quam handed off her jobs to Agent Hezel, who
8 helped -- who also helped me document the evidence. That was
9 in the same -- and they went to get some sleep, so we would
10 have additional personnel to continue the next day. And Agent
11 Tallon's job was mainly to run the FARO and help with the
12 collection of evidence as well.

12:28:21PM13 Q. So if you can, explain to the jury, I think you said that
14 the first step is that sort of walk through to get an overview
15 of the scene and assess what resources are needed. What is
16 the actual first step in following steps in processing a
17 crime, what's the first thing you do and how is it followed
18 up?

12:28:40PM19 A. The first thing we do is take our photographs, we take
20 photographs of the scene, exactly as it is when we get there.
21 This shows what was there, what everything looked like before
22 we touch anything. Then we start with our identification of
23 evidence, and then we'll place markers beside it. And in this
24 case we used yellow evidence markers, but we ran out of those,
25 so we then used index cards that were folded into little tents

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1 that we wrote on as well. And so those would -- are then
2 marked and photographed. And then if we're going to run a
3 FARO, which was 3-D scanner, to scan the scene, then that will
4 be run.

12:29:26PM 5 Any additional evidence is looked for and searched. This
6 could include anything that's in walls, doors, under anything,
7 things of that nature. And then evidence is collected and
8 packaged and sealed so it can be taken back to the lab.

12:29:45PM 9 Q. Let me make sure I have this right. Photograph everything
10 without any kind of placards or signs, first thing you do?

12:29:52PM11 A. Yes, that's correct.

12:29:53PM12 Q. And how do you do that? Do you just walk the floor and
13 people identify what they think is relevant evidence? What's
14 the process of locating that evidence in the room?

12:30:02PM15 A. The process of locating the evidence in the room is by
16 conducting a search. And the search really depends on what
17 the room -- what the room entails. So if you're in the middle
18 of an open field, then you can do a line search, but if you're
19 in a room, say a room such as this one that has lots of rows
20 and pews, you might have to conduct your search that you can
21 look under and around more items.

12:30:31PM22 So that's how the -- we do it, we walk around and we
23 determine what the best way to search that room is. And I
24 believe in this case we each took an area of the room to
25 search and divided it into smaller areas for us to search, and

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1 then people would place their markers on the items of evidence
2 they found there.

12:30:50PM 3 Q. So it's walk through, photograph, set placard down?

12:30:54PM 4 A. That is correct.

12:30:55PM 5 Q. And then is it photographed after the placard is down as
6 well?

12:30:59PM 7 A. Yes, it is.

12:30:59PM 8 Q. And these placards, you said you ran out, or at least had
9 to create some that aren't typical. Are those recorded so you
10 can log evidence? What's the point of putting a placard down?

12:31:11PM11 A. So the point of putting a placard down, so that in a
12 photograph you can identify it, for one. Because if I have a
13 small piece of evidence and I want to take a picture of it so
14 you can see as best as possible, that's not going to be able
15 to be able to take it from far away, you're going to have to
16 be close up.

12:31:30PM17 So for photographic purposes, and then also for our
18 sketch, because we do a sketch so that you can -- in this case
19 the -- we use letters. So you can put an A on your sketch
20 where that item of evidence was, and then B where the next one
21 was, and that kind of helps you to keep from drawing things
22 in, that would -- people have to draw whatever the item of
23 evidence is, and to conserve space on there as well.

12:31:57PM24 Q. And what was the, just generally speaking, the types of
25 evidence you all were locating as you walked through the crime

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1 scene?

12:32:03PM 2 A. Generally what we found were cartridge cases, bullets or
3 fired projectiles and bullet fragments. And then magazines,
4 and then a bag and a belt.

12:32:20PM 5 Q. Were there other personal items around there that you
6 would have attributed to victims as well?

12:32:26PM 7 A. There were. There were many other personal items,
8 especially in the area where the victims were located. They
9 had items that you would expect to find with them such as
10 their bags, their purses, their Bibles, their cell phones,
11 things of that nature were also present.

12:32:45PM12 Q. And just to go back to the process, once you put a placard
13 down and take a photo, you then pick those items up and bag
14 them?

12:32:54PM15 A. That is correct.

12:32:55PM16 Q. And what if you pick something up, like say there's a book
17 on the ground and you pick it up and there's something
18 underneath it, how do you deal with that?

12:33:03PM19 A. So what we would then do is we photograph everything
20 before we pick it up, so then we would remove that, once we
21 pick up that item we would then take a photograph of the item
22 that is underneath it. It may not have an evidence marker
23 placed next to it, but would say if it was, say a book, it
24 would be evidence found underneath name of book, so that there
25 you could identify where it came from.

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12:33:32PM 1 Q. And once all those items are collected, you said you
2 preserve them for analysis later?

12:33:38PM 3 A. That is correct.

12:33:39PM 4 Q. And that was your job in this case as well?

12:33:41PM 5 A. Yes.

12:33:45PM 6 Q. About how long did it take for you all to process the
7 church crime scene?

12:33:49PM 8 A. I believe it took about eight or nine hours.

12:33:55PM 9 Q. That was overnight?

12:33:57PM10 A. Yes, that was overnight.

12:33:58PM11 Q. And you talked about running out of placards. Do you have
12 a general idea about how many small pieces of evidence or
13 items you collected from that crime scene?

12:34:09PM14 A. I believe it was about 117.

12:34:15PM15 Q. Are some of those pretty small?

12:34:17PM16 A. Yeah, some of those are very small. Pieces of evidence
17 can be anything from very large to a really tiny piece the
18 size of a pin head, or sometimes some evidence can even be
19 microscopic in nature.

12:34:31PM20 Q. So I want to ask you, I want to go back a little bit and
21 talk about the exterior of the church. You said that was the
22 first area you examined?

12:34:40PM23 A. It was the first area that we walked around to see what
24 was present. Yes.

12:34:54PM25 Q. I show you Government's proposed Exhibits 26 to 36, if you

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1 could look through those quickly. Are those photographs that
2 you took?

12:35:54PM 3 A. Yes. Well, they were taken in our division.

12:35:58PM 4 Q. So you would have seen that area that night?

12:36:00PM 5 A. That is correct.

12:36:01PM 6 Q. Do they fairly and accurately represent the way the
7 outside of the church looked on June 17?

12:36:06PM 8 A. Photo 36 represents the inside of the church.

12:36:09PM 9 Q. Sorry. So 26 through 35 are the exterior?

12:36:14PM10 A. Yes, sir.

12:36:15PM11 MR. WILLIAMS: I show these to defense counsel.

12:36:26PM12 MS. PAAVOLA: No objection.

12:36:27PM13 THE COURT: Government Exhibits 26 through 35 are
14 admitted without objection.

12:36:31PM15 (Government Exhibits 26 through 35 received.)

12:36:32PM16 MR. WILLIAMS: Thank you, Your Honor.

12:36:33PM17 BY MR. WILLIAMS:

12:36:33PM18 Q. I'm going to put up on the screen in front of you -- Is it
19 Agent Burke?

12:36:37PM20 A. Yes, correct.

12:36:38PM21 Q. Agent Burke, I'm going to put up 26. Can you explain to
22 the jury what Exhibit 26 shows?

12:36:47PM23 A. Exhibit 26 shows the outside of the front of the church
24 building.

12:36:53PM25 Q. Do you know what road that fronts on to?

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12:36:56PM 1 A. Calhoun Street.

12:36:57PM 2 Q. Do you know if that front door, there's a gate there, do
3 you know if that was, or the -- there's a door up on the
4 stairs and one at the lower. Do you know if those were open
5 or closed?

12:37:07PM 6 A. The doors were all closed, and this gate down here at the
7 bottom was also locked.

12:37:13PM 8 Q. And that when you say this gate, that's the one in the
9 middle of the picture?

12:37:16PM10 A. Yeah, I'm sorry, the one in the middle of the screen.

12:37:20PM11 Q. I'm going to go to Government's 27. What does that show?

12:37:27PM12 A. This shows the side view of the church.

12:37:30PM13 Q. And if you were facing the church, is that the right side
14 of the church?

12:37:33PM15 A. It's the right side of the church.

12:37:37PM16 Q. Did you look at any evidence or anything of value in this
17 area or the area on 26?

12:37:43PM18 A. No, we did not.

12:37:47PM19 Q. I'm going to go to 28. This is the other direction, the
20 other side of the front of the church?

12:37:55PM21 A. That is correct.

12:37:56PM22 Q. And again, facing it?

12:37:57PM23 A. Yes, it's facing it from Calhoun Street just from the
24 opposite side.

12:38:01PM25 Q. And there's like a gate there, too, and looks like a door.

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1 Was that gate open when you arrived?

12:38:07PM 2 A. Yes, it was.

12:38:08PM 3 Q. And were there any other doors in the front that you could
4 tell were open or unlocked?

12:38:12PM 5 A. No. There were not.

12:38:14PM 6 Q. And again, was there any kind of evidence you found in
7 that area or in the front of the church?

12:38:20PM 8 A. No, there was not.

12:38:23PM 9 Q. I'm going to go to Government's 29. This is the side of
10 the church, the other side?

12:38:31PM11 A. That is correct.

12:38:32PM12 Q. And explain to the jury what this picture shows.

12:38:35PM13 A. This picture shows the cross, and then you can see the
14 gate to the left of that cross. That gate ends in a parking
15 lot that is on the left side of the church.

12:38:50PM16 Q. Do you recall if there was any evidence located in -- sort
17 of that area of the parking lot?

12:38:54PM18 A. Not in the front area that can be seen there.

12:38:57PM19 Q. I'm going to put up Government's 30. Can you explain to
20 the jury what that shows?

12:39:03PM21 A. This is again the left side of the church, and that is a
22 door that enters into the fellowship hall or the church down
23 there.

12:39:13PM24 Q. And it looks like there's two -- I'm going to say porch
25 lights or two lights there, floodlights. Are those located

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1 over doors?

12:39:23PM 2 A. That is correct, they're located over the two side doors
3 of the church.

12:39:26PM 4 Q. And those two side doors both lead into -- I think you
5 called it the fellowship hall?

12:39:31PM 6 A. Yes, that is -- well, the second door leads into an
7 entryway that then leads into the fellowship hall.

12:39:38PM 8 Q. And at least with regard to this door, was there any
9 evidence located in that area?

12:39:42PM10 A. No, there was not.

12:39:44PM11 Q. I'm going to put up 31. Can you explain what that shows?

12:39:51PM12 A. This shows the second door of -- on the left side of the
13 church, the one that's furthest from Calhoun Street, as well
14 as back behind it is the parking lot behind the church.

12:40:04PM15 Q. I'm going to go to 32. What does that depict?

12:40:10PM16 A. This is the same door that was in the last picture, it's
17 just a view looking directly at it.

12:40:16PM18 Q. And you testified earlier that there wasn't any evidence
19 located in the earlier exhibits. Was there some evidence
20 located in this area?

12:40:24PM21 A. Yes, there was.

12:40:25PM22 Q. Can you explain just briefly what it was?

12:40:27PM23 A. Yes, there was blood located outside this door on -- you
24 can kind of see there's a yellow line and there's a step down.
25 It was up on that step, and then just on that white part below

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1 that as well.

12:40:44PM 2 Q. Do you know if any victims were transported out through
3 that area?

12:40:47PM 4 A. Yes, EMS provided information that the victim they
5 transported was transported out this door.

12:40:56PM 6 Q. I'm going to go to Exhibit 33. What does that show?

12:41:00PM 7 A. This shows the parking lot that was behind the church.

12:41:04PM 8 Q. Was there any evidence located back there?

12:41:06PM 9 A. No, there was not.

12:41:07PM10 Q. 34, same area, different view?

12:41:13PM11 A. That is correct.

12:41:14PM12 Q. And then I'm going to go to 35. What does that show?

12:41:19PM13 A. This is the rear of the church going back down the left --
14 I'm sorry, if you're looking at it from the street, the right
15 side of the church.

12:41:28PM16 Q. So that scaffolding that's in the background is the same
17 scaffolding we saw from the earlier exhibits on the side of
18 the church?

12:41:34PM19 A. That is correct, we take photographs all the way around,
20 so the first -- where you saw the scaffolding would be that
21 side of the church, and we just went all the way back around
22 until you could see the scaffolding again.

12:41:47PM23 Q. And apart from the blood that was located outside the back
24 door, the back of the parking lot, was there any other
25 evidence you located in the parking lot or the shrubs, garbage

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1 can or anything that was helpful?

12:42:00PM 2 A. No, there was not.

12:42:10PM 3 Q. I want to ask you a little bit about the interior of the
4 church. You mentioned personal items that were found in the
5 church. Were you able to look at tables and see items that
6 were on the tables where the victims were located?

12:42:23PM 7 A. Yes, we were.

12:42:25PM 8 Q. I'm going to show you Government's 87, 88, 89 and 90. If
9 you look at those. Do you recognize those photos?

12:42:56PM10 A. Yes, I do.

12:42:57PM11 Q. Are those photos of the table?

12:42:59PM12 A. Yes, they are.

12:43:00PM13 Q. Does it accurately represent what you saw that night?

12:43:02PM14 A. It does.

12:43:04PM15 MR. WILLIAMS: Show this to defense counsel, Your
16 Honor.

12:43:12PM17 MS. PAAVOLA: No objection.

12:43:14PM18 THE COURT: Government Exhibits 87 through 90 are
19 admitted without objection.

12:43:17PM20 (Government Exhibits 87 through 90 received.)

12:43:18PM21 MR. WILLIAMS: Thank you, Your Honor.

12:43:18PM22 BY MR. WILLIAMS:

12:43:19PM23 Q. I'm going to put up Government's 87 first. We'll get back
24 later to sort of what magazines and things are, but were there
25 several tables, round tables in the center of the fellowship

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1 hall?

12:43:34PM 2 A. Yes, there were.

12:43:35PM 3 Q. And is that generally where the victims were located?

12:43:38PM 4 A. Yes, they were generally located around the area where the
5 circular tables were.

12:43:43PM 6 Q. And in this location at 87, looks like there was a sheet,
7 an open Bible and a magazine?

12:43:50PM 8 A. That is correct.

12:43:52PM 9 Q. Go to Government's 88; that was another of the tables?

12:43:59PM10 A. I'm sorry?

12:44:01PM11 Q. That was one of the other tables?

12:44:02PM12 A. Yes, it was.

12:44:03PM13 Q. And again, looks like notes and Bibles and some papers on
14 the table?

12:44:08PM15 A. That is correct.

12:44:14PM16 Q. I'm going to go to Government's 89. This is a third
17 table, looks like you had some personal items?

12:44:23PM18 A. Yes, that is correct.

12:44:26PM19 Q. And the last one is Government's 90. That again shows one
20 of the tables to the side, and then some Bibles and things on
21 the table?

12:44:42PM22 A. Yes, that is correct.

12:44:49PM23 Q. So you talked about personal items that were there. You
24 also mentioned shell casings, magazines, and what I think you
25 said were fired rounds?

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12:44:58PM 1 A. Yes, that is correct.

12:45:00PM 2 Q. Can you explain what those things are?

12:45:02PM 3 A. I can. So a shell casing or a cartridge case is ejected
4 from a gun after it is fired. It's the part that actually
5 holds a bullet that you load into the gun and then it's fired.
6 The fired projectile is the part that actually comes out of
7 the gun that is fired from the gun afterwards.

12:45:27PM 8 Q. I'm going to show you Government's proposed 49. Would
9 that be helpful to your explanation?

12:45:34PM10 A. Yes, it would be.

12:45:35PM11 MR. WILLIAMS: Show this to defense counsel.

12:45:42PM12 MS. PAAVOLA: No objection.

12:45:43PM13 THE COURT: Government 49 admitted without objection.
(Government Exhibit 49 received.)

12:45:45PM14

12:45:47PM15 BY MR. WILLIAMS:

12:45:49PM16 Q. So let me make sure I have this straight. There's a
17 firearm; is there a difference between a semiautomatic firearm
18 and a revolver?

12:45:57PM19 A. Yes, there is. A revolver has a cylinder and you load
20 your bullets or your cartridges into it. And they do not
21 eject the cartridge cases once they have been fired.

12:46:10PM22 Q. You say revolver, that's a gun like the middle part spins,
23 right?

12:46:13PM24 A. That's correct.

12:46:14PM25 Q. And a semiautomatic is the type that has a slide or a

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1 squared top?

12:46:18PM 2 A. Yes, that is correct.

12:46:19PM 3 Q. And so explain the difference again about how the
4 cartridge or a casing would be ejected or automatically loaded
5 in those two different types of guns, specifically a
6 semiautomatic.

12:46:35PM 7 A. So -- Can you repeat that? I'm sorry.

12:46:42PM 8 Q. Explain sort of why a casing would be ejected from a
9 semiautomatic handgun versus a revolver.

12:46:47PM10 A. Okay. So what happens is, is that when -- semiautomatic,
11 after it is fired, the bullet goes out of the front of the
12 gun, and there's a little pin inside the gun that takes the
13 cartridge case and tosses it out the side of it, so that the
14 next cartridge can go ahead and come into it. Whereas a
15 revolver, it -- they stay in there and that little spinning
16 part just clicks over to the side that it doesn't eject them.

12:47:18PM17 Q. And are the rounds loaded into magazines, or clips, as
18 they might be called?

12:47:22PM19 A. Yes. In a semiautomatic handgun there's a magazine that
20 has to be inserted in that contains those cartridges, so that
21 the next one can be fit into the gun when the cartridge case
22 ejects.

12:47:38PM23 Q. Let's talk about Exhibit 49. At least when it comes to
24 evidence collections, what are the parts of a round or a -- I
25 guess a bullet that you recover?

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12:47:51PM 1 A. The parts that we recover are the cartridge case, and then
2 the bullet itself or the fired projectile.

12:47:58PM 3 Q. Are there components to a fired projectile?

12:48:01PM 4 A. Depending on the type of the bullet that is used, or fired
5 projectile or cartridge that's used there, then yes, there can
6 be some -- some fired projectiles have a jacket, it's a copper
7 part that's on the outside of the lead that actually makes up
8 the bullet itself, and those can come apart if the bullet
9 strikes something. So, therefore, you might have the jacket
10 part and then the actual lead bullet part itself.

12:48:29PM11 Q. So in this, in Exhibit 49 looks like there's a copper
12 colored coating over the lead. That would be a jacketed
13 round, and in this case when it covers it, a full metal jacket
14 for the round?

12:48:43PM15 A. This would be a jacketed round there.

12:48:48PM16 Q. And so that's the copper color is the jacket and the gray
17 part is the lead, and those two are fired?

12:48:55PM18 A. Yes, that is correct.

12:48:56PM19 Q. And then the other sort of more the bigger copper part,
20 that's the casing. Is that right?

12:49:02PM21 A. Yes, the bigger golden color part that extends down below
22 and around that copper, that copper colored part is the
23 cartridge case there.

12:49:13PM24 Q. And you find evidence of all three of those pieces, and
25 did you find evidence of all three of those parts in this

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1 case?

12:49:22PM 2 A. Yes, we did.

12:49:23PM 3 Q. So you found casings, what I'm going to call the core or
4 bullet, lead, and also jackets?

12:49:29PM 5 A. That is correct.

12:49:29PM 6 Q. I'm going to ask you about the idea of a hollow point.

7 Does that make any difference in collecting evidence in terms
8 of how they fragment?

12:49:39PM 9 A. It does make some difference as far as fragmentation or
10 the shape they can be in when they're found. A hollow point
11 bullet means that the nose or the tip of it has basically a
12 hole or a hollow point in it which can cause them to deform
13 more when they are -- strike another object.

12:50:05PM14 Q. So what I want to ask you about next is the process of
15 going through and documenting the scene, and I think you
16 mentioned that you used a FARO scan?

12:50:16PM17 A. Yes, that is correct.

12:50:17PM18 Q. Have you reviewed that FARO scan?

12:50:19PM19 A. Yes, I have.

12:50:20PM20 Q. And Agent Tallon is the one that put that together?

12:50:26PM21 A. Yes, he is.

12:50:24PM22 Q. Does it represent the scene accurately?

12:50:26PM23 A. Yes, it does.

12:50:27PM24 Q. And are you generally familiar with how to navigate that
25 software?

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12:50:31PM 1 A. Yes, I am.

12:50:32PM 2 Q. What I'm going to do is go to Government Exhibit 10, and
3 I'm going to have to mess with some software, so if you give
4 me a second.

12:50:45PM 5 THE COURT: Mr. Williams, how long will this
6 particular portion take?

12:50:48PM 7 MR. WILLIAMS: Probably a good time to break; it's
8 going to take awhile.

12:50:51PM 9 THE COURT: Why don't we break for lunch and do this
10 after lunch. We're going to break for our lunch hour, it's
11 about ten to, we'll reconvene at about ten to 2:00.

12:51:02PM12 (Jury excused.)

12:51:37PM13 THE COURT: Very good. We will reconvene in about an
14 hour.

12:51:45PM15 (A recess was held at this time.)

2:00:18PM16 (Jury not present.)

2:00:22PM17 THE COURT: Yes, sir, Mr. Bruck, you have a matter
18 you need to address?

2:00:25PM19 MR. BRUCK: Yes, sir. In light of the colloquy this
20 morning with the Court, I find the need to confer with my
21 client after court this evening, and would, therefore, simply
22 going to ask that, if possible, the Court break earlier rather
23 than later today. I realize it will depend on the witnesses
24 and the testimony, but we have a particular need to have some
25 time with the client. I have a particular need to talk with

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1 my client this evening, and hope that the Court would be so
2 good as to accommodate that.

2:00:57PM 3 THE COURT: Well, why can't you speak to him after
4 court?

2:01:01PM 5 MR. BRUCK: Well, I can, the question is we also have
6 to prepare for tomorrow, and I'm hoping --

2:01:06PM 7 THE COURT: I understand, but there's a lot of moving
8 parts to this thing, and there are things I can't do during
9 the trial other than during trial, and there are things we can
10 do after trial, and one of them is conferring with our clients
11 and preparing witnesses. You know, I'm not going to keep us
12 here inordinately, Mr. Bruck, I need to keep this trial
13 moving. But I'm going to do that, but when the proper time to
14 break, we will break, and I think you should have ample time
15 with your client.

2:01:34PM16 Okay. Let's bring the jury in.

2:02:23PM17 (Jury present.)

2:02:42PM18 THE COURT: Government continue its direct.

2:02:45PM19 MR. WILLIAMS: Thank you, Your Honor.

2:02:45PM20 BY MR. WILLIAMS:

2:02:49PM21 Q. Agent Burke, I believe before the break we were talking
22 about the FARO scan, and that that was an item that Tre Tallon
23 could use to process the scene?

2:02:59PM24 A. That is correct.

2:03:00PM25 Q. And you're familiar with that -- those scans and the

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1 software used?

2:03:04PM 2 A. Yes, I am.

2:03:05PM 3 Q. I'm going to bring up what's a derivative of Government's

4 10. And does that look familiar to you?

2:03:22PM 5 A. Yes, it does.

2:03:23PM 6 Q. And I think there's three screens, right, one shows the

7 overhead, one shows individualized scans, and the other is the
8 blow-up or the active screen of the scan?

2:03:33PM 9 A. That is correct.

2:03:34PM10 Q. I'm going to expand the lower screen. Could you tell the
11 jury what is depicted in this picture?

2:03:46PM12 A. This is the outside of the church.

2:03:47PM13 Q. And you had testified earlier through the photographs as
14 to the outside of the church, correct?

2:03:52PM15 A. That is correct.

2:03:52PM16 Q. Is there anything additional in these scans and the
17 outside that would be captured, that wasn't in those earlier
18 photos?

2:03:59PM19 A. No, there is not.

2:04:00PM20 Q. So I'm not going to go through the whole parking lot, but
21 I'm going to skip over to near the door at pin number two.
22 I'm going to toggle over, I believe you said there was some
23 blood in some items outside the door. Is that depicted in
24 that scan?

2:04:24PM25 A. Yes, it is.

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2:04:25PM 1 Q. Can you also explain the yellow marker on the ground
2 there?

2:04:30PM 3 A. The yellow marker is when those yellow evidence tents that
4 I spoke about earlier, it's what we use to mark evidence. In
5 this case they were given a letter, so that marker would have
6 a letter on it that lets us know what item of evidence that
7 is.

2:04:50PM 8 Q. I'm going to go to pin number three. What does this area
9 depict?

2:04:59PM10 A. This area depicts just as you enter the door of the
11 church, turns to a little entryway that you step into there.

2:05:08PM12 Q. I'm going to put this onto the 360 rotation. I'm going to
13 scroll down to the floor area. Can you tell the jury what
14 generally was located in that area?

2:06:10PM15 A. What was located in this area was a pool of suspected
16 blood there, as well as there was a fired projectile located
17 in this area as well. There were also numerous bullet effects
18 to the wall that were located in this area.

2:06:31PM19 Q. Let's scroll around to the outside of the door. I believe
20 you can just see the edge of the placard that you mentioned
21 earlier?

2:06:40PM22 A. Yes, that is correct.

2:06:41PM23 Q. And does that also show the blood that was located on the
24 outside of the building near the stair?

2:06:45PM25 A. Yes, it does.

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2:06:56PM 1 Q. I'm going to go to pin number four. What's the area?

2:07:04PM 2 A. This is leading from the entryway into what I have been
3 calling the fellowship hall.

2:07:12PM 4 Q. I'll do another rotation of this.

2:08:08PM 5 Now again here to the floor, what were the items that were
6 located in this area?

2:08:13PM 7 A. In this area the black Messenger bag that you can see at
8 marker DD was located there, as well as the area there were
9 some cartridge cases located as well.

2:08:25PM10 Q. There's like a blue item above that pouch. You testified
11 earlier that there were maybe medical items left behind?

2:08:32PM12 A. Yes, there were items that were consistent with medical
13 personnel being there. Purple gloves are one of those items
14 we typically see left behind by persons who attempt to render
15 aid to victims.

2:08:47PM16 Q. Also looks like there might be some footprints running
17 through there.

2:08:51PM18 A. That is correct, there were some -- what appeared to be
19 possible shoe prints and suspected blood that were located
20 through that area as well.

2:09:00PM21 Q. I'm going to go back around to the floor area. And is
22 that that same area of blood that you talked about earlier?

2:09:16PM23 A. Yes, it is the same area of blood there.

2:09:30PM24 Q. I'm going to go to pin five. Is that the same general
25 location that you just testified to?

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2:09:37PM 1 A. Yes, it's the same general location, just through the door
2 frame that the other scan was placed in.

2:09:45PM 3 Q. I'll do the rotation. I'll scroll down to the floor in
4 this area. This is a little bit washed out with the
5 brightness. Does it look like there were some items in that
6 area?

2:10:42PM 7 A. There were some items in that area. You can see a belt
8 located in the floor, as well as evidence markers placed
9 there.

2:10:50PM10 Q. And looks like there were evidence markers E and F on the
11 floor by this table as well?

2:10:57PM12 A. That is correct.

2:11:02PM13 Q. Can you tell what those items are?

2:10:59PM14 A. Those items are cartridge cases.

2:11:09PM15 Q. I'm going to go to pin number six. Let me go to pin six
16 now. Is this the main area of the sanctuary?

2:11:29PM17 A. Yes, it is.

2:11:30PM18 Q. Sorry, the fellowship hall.

2:11:33PM19 A. Yes, this is the main area there that comprised most of
20 where the evidence was located in the same area.

2:11:44PM21 Q. Earlier on you had shown four photos of round tables. Is
22 one of those round tables directly in front of this image?

2:11:55PM23 A. Yes, that's the front round table, and there were
24 subsequently three in a linear fashion behind it.

2:12:03PM25 Q. I'm going to go to rotation of this image. I'm going to

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1 now scroll down to the floor, check the evidence there. Was
2 there anything generally located in this area?

2:13:09PM 3 A. There were the items that we could see from the previous
4 scan there with the H and I and G there. There were also some
5 items located underneath and beside the chairs against the
6 front wall there.

2:13:26PM 7 Q. There's a couple of items, looks like J, M and K?

2:13:30PM 8 A. Yes, and T as well there.

2:13:52PM 9 Q. I'm going to go now to pin number 17. And I'm going to
10 hit the rotation on this.

2:15:08PM11 You testified earlier regarding the tables. Are these
12 those same tables?

2:15:11PM13 A. Yes, they are.

2:15:12PM14 Q. You testified earlier that there was one individual who
15 had looked like they had been treated. Is that this
16 individual at the bottom?

2:15:20PM17 A. Yes, it is.

2:15:22PM18 Q. Going to go to the first table. Can you tell the jury
19 quickly sort of what -- we don't have to go through every
20 single placard, but what was this item on the table, from your
21 appearances?

2:15:36PM22 A. The item on the table there located by the thing with all
23 the Bs on it is a magazine.

2:15:49PM24 Q. Looking at the ground under this seat, do you know
25 generally what these items are scattered across the floor?

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2:15:56PM 1 A. There are cartridge cases there, I can see what's in the
2 front the items closest under the chair appear to be cartridge
3 cases and a magazine. The ones located further away I can see
4 in this particular picture, but they would be -- I know they
5 are either cartridge cases or fired projectiles or fragments
6 from fired projectiles.

2:16:21PM 7 Q. I'm going to focus. Do you note any deformations or marks
8 to the tablecloths?

2:16:31PM 9 A. Yes, there were what we suspect to be bullet holes that
10 were through the tablecloths, and on multiple of the tables,
11 and some of those did correspond with holes that were present
12 on the tables underneath the tablecloths as well.

2:16:49PM13 Q. In your experience, are those consistent with gunshots or
14 gunfire going through the table?

2:16:53PM15 A. Yes, they would be.

2:17:00PM16 Q. There were several individuals located in this area; were
17 you able to identify who they were?

2:17:07PM18 A. At the point in time here, we still did not have the
19 identities, that's why you see numbers on them there. So I
20 identified them with the numbers, and then at a later point in
21 time we were able to identify them based on personal
22 belongings and descriptions of their clothing.

2:17:26PM23 Q. Do you know who the person number four, at the time known
24 as number four, who that is?

2:17:32PM25 A. Can I refer to my legend here?

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2:17:34PM 1 Q. Certainly.

2:17:34PM 2 A. Victim number four would be Sharonda Singleton.

2:17:37PM 3 Q. And victim number six in the background?

2:17:39PM 4 A. Tywanza Sanders.

2:17:48PM 5 Q. It looks like there were a few items sort of located
6 underneath the chairs as well, between the tables?

2:17:54PM 7 A. Yes, there were items between the tables as well.

2:17:56PM 8 Q. And you said those were mostly casings, projectiles or
9 fragments?

2:18:04PM10 A. Yes, they were.

2:18:07PM11 Q. I'm going to go to number 16. This is that same area but
12 further back?

2:18:18PM13 A. That is correct.

2:18:35PM14 Q. For the record, this is pin 16, that's a rotational view.
15 And just for reference, is this area in the background of pin
16 that same entranceway where the pouch was located?

2:19:27PM17 A. Yes, it is.

2:19:36PM18 Q. Do you have a record or a note of who number one, the
19 first victim at the time at least was?

2:19:43PM20 A. Yes, that was Clementa Pinckney.

2:19:55PM21 Q. If you could explain, there are several placards also in
22 the background around these chairs, were those the -- we'll
23 get to it later more specific, but was that generally the same
24 type of items in that area?

2:20:07PM25 A. Yes, all of those items are also either a magazines, a

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1 cartridge case, a fired projectile or a fragment of a fired
2 projectile of some sort.

2:20:18PM 3 Q. You said earlier they were fairly evenly spread around.

4 Is that consistent with what's seen in this image?

2:20:24PM 5 A. Yes, there were cartridge cases, projectiles and fragments
6 all around those tables that we have been looking at, that are
7 located in the center of the room. They were located on all
8 sides of that.

2:20:54PM 9 Q. I'm going to go to pin number -- go to pin number 14. Do
10 you know what area of the church this shows?

2:21:09PM11 A. Yes, this is the area next to the four circular tables and
12 between the rows of chairs that were placed, it's towards the
13 back of that fellowship hall area looking back towards the
14 front.

2:21:23PM15 Q. And that's Senator Pinckney on the ground in the
16 background?

2:21:27PM17 A. Yes, that is correct.

2:21:28PM18 Q. And these items that are in the immediate foreground, do
19 you have any idea what they are generally?

2:21:34PM20 A. X and Y are cartridge cases, and A is a magazine. I can
21 not see what C is, it's behind the placard.

2:21:51PM22 Q. It looks like there's a number two here; do you know who
23 that individual was?

2:21:55PM24 A. Yes, that individual was Cynthia Hurd.

2:22:03PM25 Q. You talked earlier about Tywanza Sanders; he's located

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1 there, is that correct?

2:22:08PM 2 A. That is correct.

2:22:10PM 3 Q. Do you know who number -- number eight at least at the
4 time was known as?

2:22:14PM 5 A. Victim eight was Susie Jackson.

2:22:19PM 6 Q. And again there's -- looks like casings on the floor?

2:22:21PM 7 A. That is correct.

2:22:25PM 8 Q. Same thing at the bottom of the screen, several casings
9 sort of scattered there.

2:22:29PM10 A. Yes, that is correct.

2:22:43PM11 Q. Go to pin 15. And the rotational scan of pin 15. That's
12 Senator Pinckney in the same place you identified before?

2:23:53PM13 A. That is correct.

2:23:55PM14 Q. Scan over, I believe you identified earlier that Miss Hurd
15 was next to placard number two?

2:24:03PM16 A. That is correct.

2:24:04PM17 Q. Do you know who this individual is?

2:24:06PM18 A. That individual is Myra Thompson.

2:24:09PM19 Q. And placard number five, do you know who that individual
20 is?

2:24:13PM21 A. Depayne Middleton Doctor.

2:24:17PM22 Q. You talked earlier about defects to tablecloths indicating
23 gunfire. Were there similar defects in the tablecloth
24 depicted above Miss Hurd?

2:24:28PM25 A. Yes, there are similar defects to the tablecloth that's

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1 depicted there as well.

2:24:38PM 2 Q. Do you have an indication from your notes who this
3 individual -- I can't see a placard -- but next to
4 Miss Jackson and Miss Depayne?

2:24:48PM 5 A. Yes, that's Ethel Lance.

2:25:01PM 6 Q. Then it goes back to pin 14. You said that there were
7 casings along there; is that true at the end of the hallway as
8 well?

2:25:20PM 9 A. I'm sorry?

2:25:21PM10 Q. Are there also casings at the end of the walkway there as
11 well, which is D and C?

2:25:27PM12 A. C appears to be a casing; D, I'm not certain. I can refer
13 to my notes, if you like. It looks like it may be a fragment.

2:25:44PM14 Q. I'm going to go to pin number 19. We'll do a rotational
15 scan of 19. I'm going to ask you if you know what this item
16 might be; looks like it's a subseries of Z.

2:27:11PM17 A. Items there represented by Z would be a magazine.

2:27:20PM18 Q. Looking at the ground area here, this is Mr. Sanders as
19 well as Miss Jackson.

2:27:26PM20 A. That is correct.

2:27:29PM21 Q. Were you able to examine the tablecloth that's just above
22 Mr. Sanders?

2:27:36PM23 A. Yes, we were able to look at that.

2:27:39PM24 Q. What did that appear to you as a crime scene examiner?

2:27:43PM25 A. It appears to be blood, suspected blood there on the

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1 tablecloth.

2:27:47PM 2 Q. Are you familiar with the idea of a blood transfer?

2:27:49PM 3 A. Yes, I am.

2:27:50PM 4 Q. What is a blood transfer?

2:27:51PM 5 A. A blood transfer is when blood from one object -- when one
6 object has blood on it and it comes in contact with another
7 object and it leaves the blood on that object.

2:28:01PM 8 Q. And did that appear to be a transfer, a spatter, what type
9 of pattern?

2:28:06PM10 A. It appears that that blood was on another object prior to
11 being placed on that object.

2:28:18PM12 Q. I'm going to go to pin 18. Do a rotation of that. You
13 talked earlier about damage to tablecloths, but there are also
14 items, medical items and damage in this area as well?

2:29:30PM15 A. Yes, there were.

2:29:35PM16 Q. Victim number five was who, again? Miss Depayne?

2:29:39PM17 A. Yes.

2:29:40PM18 Q. And Myra Thompson was three?

2:29:42PM19 A. That is correct.

2:29:48PM20 Q. Tywanza Sanders was number six?

2:29:50PM21 A. That is correct.

2:29:51PM22 Q. It looks like -- Do you know what these multiple P objects
23 were?

2:29:59PM24 A. Multiple O and P objects would be fired projectiles that
25 were located on the ground.

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2:30:06PM 1 Q. Do you see some of those defects in the tablecloth in this
2 photo as well?

2:30:12PM 3 A. Yes, there were defects to that tablecloth as well.

2:30:24PM 4 Q. Go to pin number 13.

2:30:32PM 5 MR. WILLIAMS: Do a rotation, Your Honor, of pin 13.

2:31:29PM 6 Q. I'm going to focus on the immediate foreground here. I
7 believe you had identified a magazine sort of in the middle of
8 that area before. What are items Y and Z?

2:31:41PM 9 A. Those are both magazines.

2:31:53PM10 Q. Is there an item here as well?

2:31:55PM11 A. Yes, there is.

2:31:58PM12 Q. And I'm going to zoom in on the chair that's immediately
13 in front. Do you know what that item was as well?

2:32:06PM14 A. That item was also a magazine.

2:32:34PM15 Q. Then go to pin number 12, I'll do a rotational view of 12.
16 This just shows the back corner of the fellowship hall?

2:33:51PM17 A. That is correct.

2:33:54PM18 Q. Go to pin number 11. And the ground here, I think you
19 testified earlier there were several pieces of items of
20 evidence on the ground as well?

2:34:08PM21 A. Yes, there were.

2:34:16PM22 Q. Go to pin ten. This is similar, there are several items
23 located underneath the chairs?

2:34:29PM24 A. Correct, there were items located underneath the chairs
25 throughout the area.

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2:34:38PM 1 Q. Go to pin nine. This is back towards the area where we
2 started with the FARO scan, meaning the area just inside the
3 door where Mr. Simmons and Mr. Pinckney were located, is that
4 correct?

2:34:56PM 5 A. That is correct.

2:35:05PM 6 Q. I'm going to go to eight. This is that same area, just a
7 few steps further?

2:35:14PM 8 A. Correct. It is.

2:35:31PM 9 Q. So does that cover the majority of the FARO scans in that
10 room?

2:35:37PM 11 A. Yes, it covered the majority of them.

2:35:40PM 12 Q. Okay. Is there anything that you can think of that wasn't
13 captured in there, apart from details?

2:35:45PM 14 A. No, there was not.

2:35:50PM 15 MR. WILLIAMS: Your Honor, if I can have a second,
16 I'm going to save this as the exhibit.

2:35:53PM 17 BY MR. WILLIAMS:

2:36:20PM 18 Q. I'm going to give you what's been marked as Government's
19 proposed Exhibit 48. Do you recognize that item?

2:36:33PM 20 A. Yes, I do.

2:36:34PM 21 Q. Can you tell me what it is?

2:36:36PM 22 A. It is a sketch that I created of what we observed while
23 processing the crime scene that night.

2:36:43PM 24 Q. Did you put this sketch together yourself?

2:36:45PM 25 A. Yes, I did.

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2:36:45PM 1 Q. Does it list all those items that you were talking about
2 that were scattered through the crime scene?

2:36:52PM 3 A. Yes, it depicts them, and it has -- first page depicts
4 them, then the next two pages are a legend that told what each
5 marker represents.

2:37:01PM 6 MR. WILLIAMS: I show this to defense counsel, Your
7 Honor.

2:37:06PM 8 MS. PAAVOLA: No objection.

2:37:07PM 9 THE COURT: Very good. Government 48 admitted
10 without objection.

2:37:10PM11 (Government Exhibit 48 received.)

2:37:10PM12 BY MR. WILLIAMS:

2:37:10PM13 Q. I'm going to put up the first page of Government's 48.
14 Explain, if you can, to the jury, first of all, why there's
15 five different colors.

2:37:20PM16 A. So there was a lot of evidence in various -- or relatively
17 small room, and in order to fit all of them on the page, all
18 of the evidence was labeled from A -- I went through the
19 alphabet one time, two times, three times, up to five letters
20 of the alphabet. So I go from 1A through to 5N. And I didn't
21 have enough room to put five Ns in a little square on there,
22 so if you look down in the bottom right corner you see a
23 legend there, and all the markers in green are 1A through 1Z.
24 All the markers in blue are going to be 2A through 2Z, purple
25 is threes, pink is fours and fives are orange. And that was

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1 the best way I could come up with to differentiate which item
2 of evidence was which one on there. And that's why you see so
3 many different colors on the sketch.

2:38:21PM 4 Q. So it's not like all the green ones are bullet casings,
5 all the blue ones are fragments?

2:38:27PM 6 A. No, it's just to denote which series of the alphabet that
7 they were in, and then the letter that's represented inside
8 the square corresponds to that letter.

2:38:39PM 9 Q. And effectively it would be too hard to put five As on
10 this diagram.

2:38:43PM11 A. Correct.

2:38:45PM12 Q. So looking at that diagram, there's also what you have as
13 suspected bullet defects. What does that mean?

2:38:55PM14 A. So that is the spot -- if you look, they're going to be in
15 the walls of the church, there are all those little red dots,
16 you can see some up in the area that say entry hall and church
17 office, there's also some down near the area of the vestibule
18 and the kitchen area. Those are areas where we found a hole
19 in the wall that we believe that a bullet passed through the
20 wall and either entered the wall or passed completely through
21 there. And that's what those are representing.

2:39:29PM22 Q. Approximately how many different bullets did you recall
23 seeing through the walls?

2:39:33PM24 A. Through the walls?

2:39:35PM25 Q. Correct. Approximately; doesn't have to be exact number.

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2:39:41PM 1 A. About ten. There were more holes than that, but I believe
2 there were about ten that we could match, because you might
3 have a hole on one side of the wall and then a hole on the
4 other side of the wall, and those correspond to one bullet
5 versus one hole on one side of the wall, and then none on the
6 other would correspond to a second bullet.

2:40:02PM 7 Q. Was there a round that you think exited the building?

2:40:05PM 8 A. We found a defect over in the entry hall that it would be
9 possible that the bullet did exit the building into the back
10 parking lot area.

2:40:17PM11 Q. I'm going to show you Government's proposed 36 and 38. If
12 you can take a look at those. Are those pictures that were
13 taken that night?

2:40:43PM14 A. Yes, they are.

2:40:52PM15 MR. WILLIAMS: I show them to defense counsel.

2:40:56PM16 MS. PAAVOLA: Your Honor, subject to our earlier
17 objection to 36, which was overruled, we have nothing further.

2:41:01PM18 THE COURT: Very good. Government 36 and 38 are
19 admitted; 36 over the objections of defense.

2:41:08PM20 (Government Exhibits 36 and 38 received.)

2:41:08PM21 BY MR. WILLIAMS:

2:41:08PM22 Q. I'm going to put up Government's Exhibit 36 first. Can
23 you explain what that shows?

2:41:15PM24 A. This is a picture standing from that front side of what we
25 have been calling the fellowship hall, looking back into the

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1 entryway by the front door there, and it shows -- it shows --
2 you can see the black 511 bag up here towards the bottom of
3 the picture, and up at the top of the picture is that entryway
4 where you can see that suspected blood was located there.

2:41:50PM 5 Q. I hand you Government proposed 37; can you look at that?

2:41:54PM 6 A. I can.

2:42:09PM 7 Q. First of all, there's tape on there; is that consistent
8 with evidence collection?

2:42:14PM 9 A. Yes, it is consistent with evidence collection, it is
10 consistent with me having originally packaged the item, which
11 I can see from the side that has not been cut and has my
12 original tape on it. And then as it was sent for processing
13 in the lab, any other further departments or anybody else that
14 opened it after me would cut through one side of it, and then
15 place tape across the top of it afterwards and put their
16 initials on it where they sealed it after they had opened it.

2:42:44PM17 Q. You said several items had gone for processing within
18 SLED. Is that consistent with that processing?

2:42:48PM19 A. Yes, it is.

2:42:54PM20 Q. Can you just say if you recognize it before you --

2:42:58PM21 A. Yes.

2:42:58PM22 Q. Do you recognize it?

2:42:59PM23 A. I do.

2:43:02PM24 Q. Show it to defense counsel.

2:43:06PM25 MS. PAAVOLA: No objection, Your Honor.

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2:43:06PM 1 THE COURT: Very good. Government 37 is admitted
2 without objection.

2:43:09PM 3 (Government Exhibit 37 received.)

2:43:09PM 4 BY MR. WILLIAMS:

2:43:10PM 5 Q. So this item 37 has also some lettering and numbering on
6 it?

2:43:15PM 7 A. Yes, it does.

2:43:16PM 8 Q. Where does that come from?

2:43:17PM 9 A. I believe that was on there, so that would have come from
10 processing that occurred after it had been submitted to the
11 lab.

2:43:26PM12 Q. This was the 36 and 37, the picture and then the item that
13 was located, the pouch that was on the floor, you called it
14 the bag?

2:43:34PM15 A. Yes, that is correct.

2:43:39PM16 Q. I'm going to show you Government 39 as well. Do you
17 recognize that, too?

2:44:01PM18 A. Yes, I do.

2:44:02PM19 Q. What is it?

2:44:02PM20 A. It is a brown belt that we collected from the scene.

2:44:11PM21 MR. WILLIAMS: Your Honor, I'll move to admit
22 Government 39 as well.

2:44:15PM23 MS. PAAVOLA: No objection.

2:44:16PM24 THE COURT: Government 39 admitted without objection.

2:44:17PM25 (Government Exhibit 39 received.)

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2:44:17PM 1 BY MR. WILLIAMS:

2:44:18PM 2 Q. I'm going to put up Government's 38 on the screen. So 38
3 was located on the floor and then packaged as well?

2:44:43PM 4 A. That is correct.

2:44:44PM 5 Q. So the belt, and the we call it the tactical pouch, were
6 they located next to each other?

2:44:54PM 7 A. They were located a short distance from each other. The
8 belt was located right here, as you can see in this picture
9 that door frame leads into that little entry area where the
10 bag was located. Just right clear through the doors.

2:45:15PM11 Q. Apart from those two physical items, were there any other
12 sort of clothing items that were located that you seized that
13 you recall from this crime scene?

2:45:25PM14 A. No, there were not.

2:45:26PM15 Q. So I want to ask you now about some of those smaller
16 items. You described earlier that there were casings sort of
17 around the room. Let me go back to the color chart. I don't
18 want to go through where each one of those casings was
19 located, but did you have a chance to total up the number of
20 casings that were located in this scene or on the crime scene?

2:45:57PM21 A. There were 74 that were collected from the scene.

2:46:02PM22 Q. And each one of those represent a fired shot?

2:46:05PM23 A. Yes, that is correct.

2:46:21PM24 Q. I show you Government's Exhibit 50, 51, and 52.

2:46:30PM25 THE COURT: 50, 51 and 52?

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2:46:32PM 1 MR. WILLIAMS: Yes, Your Honor.

2:46:44PM 2 Q. Are those photos that you were involved with taking?

2:46:46PM 3 A. Yes, they are.

2:46:49PM 4 MR. WILLIAMS: I'm going to show this to defense
5 counsel.

2:47:01PM 6 MS. PAAVOLA: No objection.

2:47:02PM 7 THE COURT: Government 50, 51 and 52 are admitted
8 without objection.

2:47:06PM 9 (Government Exhibits 50, 51 and 52 received.)

2:47:06PM10 BY MR. WILLIAMS:

2:47:06PM11 Q. I'm going to put up Government's Exhibit 51. You had
12 testified earlier during the FARO, that there were some
13 casings found up near the door area. Are those the casings
14 you were talking about?

2:47:19PM15 A. Yes, they are.

2:47:27PM16 Q. And are those representative of the rest of the casings of
17 all the 74, so to speak?

2:47:34PM18 A. Yes, they were representative of all of them.

2:47:36PM19 Q. I'm going to show you Government's proposed 53 and 54.
20 What are those two items?

2:47:54PM21 A. These are the cartridge cases that we collected from
22 markers E and F that are depicted in the picture.

2:48:01PM23 MR. WILLIAMS: I show these to defense counsel.

2:48:03PM24 MS. PAAVOLA: No objection.

2:48:04PM25 THE COURT: Exhibits 53 and 54 are admitted without

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1 objection.

2:48:07PM 2 (Government Exhibits 53 and 54 received.)

2:48:08PM 3 Q. I'm going to ask you about do you know what a head stamp
4 is?

2:48:13PM 5 A. Yes.

2:48:13PM 6 Q. What is a head stamp?

2:48:14PM 7 A. A head stamp is what is stamped into the bottom of a
8 cartridge case. It typically tells about the caliber and the
9 manufacturer of that particular ammunition.

2:48:28PM10 Q. What was the head stamp on these, if you can tell?

2:48:31PM11 A. Let me see them. They are Winchester 45 auto, is what the
12 head stamp reads.

2:48:40PM13 Q. Do you recall if they were all the same?

2:48:41PM14 A. Yes, they were all the same head stamp.

2:49:02PM15 Q. I'm going to show you Government's 55. Are you familiar
16 with that?

2:49:16PM17 A. Yes, I am.

2:49:19PM18 Q. Is that something you assembled?

2:49:21PM19 A. Yes, it's got the date and my initials here across the
20 top, it's something I helped assemble.

2:49:26PM21 Q. So you put all of those into that one bag.

2:49:28PM22 A. Yes, I did.

2:49:29PM23 Q. You looked at all those items individually?

2:49:31PM24 A. Yes.

2:49:31PM25 Q. And so what are they?

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2:49:32PM 1 A. These are the rest of the cartridge cases that were
2 collected from the scene.

2:49:38PM 3 Q. That would be 72 of them?

2:49:51PM 4 A. That is correct.

2:49:46PM 5 Q. Show this to defense counsel.

2:49:50PM 6 MS. PAAVOLA: No objection.

2:49:50PM 7 THE COURT: Government 55 admitted without objection.

2:49:52PM 8 (Government Exhibit 55 received.)

2:49:52PM 9 BY MR. WILLIAMS:

2:49:54PM10 Q. And that bag was sealed and had your initials on it?

2:49:56PM11 A. That is correct.

2:50:08PM12 Q. So is that, between those three exhibits, the larger bag
13 and the two smaller bags, that is all of the shell casings
14 that were recovered on the scene?

2:50:17PM15 A. Yes, it is.

2:50:18PM16 Q. And that was 74 total?

2:50:20PM17 A. Yes.

2:50:28PM18 Q. You talked a little bit earlier about magazines, and we
19 saw some of these in the FARO scans. How many magazines total
20 were recovered at the crime scene?

2:50:39PM21 A. There were seven total recovered.

2:50:42PM22 Q. And I don't want to get too far ahead, but there was a
23 later time where you also searched the defendant's car?

2:50:48PM24 A. That is correct.

2:50:48PM25 Q. Was there a magazine located there as well?

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2:50:51PM 1 A. Yes, there was.

2:50:51PM 2 Q. So there were seven magazines located at the crime scene.

2:50:55PM 3 A. That is correct.

2:51:02PM 4 Q. I want to ask you briefly about the number of rounds a
5 magazine can hold. Are there different capacities for
6 magazines?

2:51:10PM 7 A. There are. Different guns are different sizes.
8 Therefore, the magazine that goes in them is a different size,
9 and depending on what type of gun it is and what type of
10 magazine, whether it's a magazine that came with the gun or
11 whether they purchased afterwards, can determine how many
12 different cartridges or how many cartridges can go in a gun.

2:51:33PM13 Q. What was the capacity for the magazines you located in
14 this case?

2:51:36PM15 A. They held 13 cartridges each.

2:51:40PM16 Q. I'm going to hand you Government's 40 to 46. Take a look
17 at that, let me know if you recognize it.

2:52:00PM18 A. Yes, I do.

2:52:02PM19 Q. What are they?

2:52:02PM20 A. These are the magazines that were collected on scene.

2:52:05PM21 Q. And you collected those yourself?

2:52:07PM22 A. Yes.

2:52:09PM23 MR. WILLIAMS: I'm going to show these to defense
24 counsel.

2:52:29PM25 MS. PAAVOLA: No objection.

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2:52:30PM 1 THE COURT: Government 40 and 46 admitted without
2 objection.

2:52:34PM 3 (Government Exhibits 40 and 46 received.)

2:52:34PM 4 || BY MR. WILLIAMS:

2:52:34PM 5 Q. Let me go back to your diagram. Do you have a record of
6 which items on this screen were magazines?

2:52:48PM 7 A. Yes, I do. It's going to be items marker AA, which is
8 going to be the blue A that is located -- yes, it's kind of --
9 in between these two green X and Y there.

2:53:13PM10 || Q. What color?

2:53:14PM11 A. It's the blue A located between the green X and Y.

Q. Can you write on that screen, do you know? Try to.

2:53:25PM13 || A. I do not know.

2:53:33PM14 Q. So can you explain where it is on this screen again?

2:53:36PM15 A. Yeah, it's kind of to the top of the screen, it's a blue A
16 located between a green X and Y on the third line that
17 represents right there.

2:53:54PM18 Q. And what number, what letter was that again?

2:53:57PM19 A. That was AA.

Q. Where was the next one located?

2:54:04PM21 A. The next one was located at YY, which is going to be next
22 to the table located closest to the center in the bottom
23 portion, the table that's located or positioned vertically on
24 the page.

2:54:22PM25 Q. Where was the third one?

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2:54:23PM 1 A. The blue -- the blue Z, which was ZZ that is located there
2 next to YY.

2:54:32PM 3 Q. Those were the same area?

2:54:33PM 4 A. Yes, they were.

2:54:34PM 5 Q. And the next one?

2:54:35PM 6 A. Next one was triple AAA, which is going to be a purple A
7 that was located near the table on the back wall near the
8 kitchen.

2:54:49PM 9 Q. That was what was behind close to the wall in the back?

2:54:52PM10 A. That's correct.

2:54:53PM11 Q. And the next one?

2:54:55PM12 A. The next one is going to be marker BBBB, which is the one
13 that's on the front round table.

2:55:08PM14 Q. There was another one located near that as well, is that
15 correct?

2:55:11PM16 A. There was. I'm sorry, I skipped one, marker XXX.

2:55:18PM17 Q. So two in that same area, one on the table and one on the
18 ground?

2:55:23PM19 A. Yes, and it's the purple X, it's W through X, right there,
20 because all three of them -- W and X were right next to each
21 other there.

2:55:33PM22 Q. I'm going to ask you about the BBBB, is that the one that
23 was sitting on the table?

2:55:40PM24 A. That is correct.

2:55:40PM25 Q. Was there anything particular about that one?

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2:55:43PM 1 A. Yes, that magazine still had cartridges left inside of it.

2:55:47PM 2 Q. I'm going to hand you Government's 40. Are those live
3 rounds still in that exhibit?

2:55:53PM 4 A. Yes, they are.

2:55:55PM 5 Q. So the magazine that was on the table had how many rounds
6 still remaining in it?

2:56:01PM 7 A. It still had four rounds remaining in it.

2:56:04PM 8 Q. Those are the four rounds with the magazine?

2:56:06PM 9 A. That is correct.

2:56:07PM10 Q. Did any of the other magazines have any rounds in them?

2:56:11PM11 A. No, they did not.

2:56:14PM12 Q. So you recovered 74 casings, correct?

2:56:18PM13 A. That is correct.

2:56:19PM14 Q. And then four live rounds?

2:56:21PM15 A. Yes.

2:56:28PM16 Q. And does that cover all of the magazines? Is there one
17 more?

2:56:33PM18 A. There was one more that is going to be NNNN, which is the
19 one that's located in the chair, it's a pink N located in the
20 chair at the end of the long table. On the right side of the
21 room.

2:56:48PM22 Q. So you've seen the FARO evidence. Were the magazines all
23 located in the area outside from where the victims were
24 primarily located?

2:57:02PM25 A. They were all located on the outside of where they were

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1 primarily located, yes. With the exception of the one that
2 was located on top of the actual table.

2:57:13PM 3 Q. And was there fairly consistently located around the room,
4 meaning sort of evenly spaced throughout the room instead of
5 all in one location?

2:57:22PM 6 A. There were two located towards the back, if you're looking
7 at the diagram, towards the back left, two towards the back
8 right and two towards the front right there.

2:57:39PM 9 Q. I want to ask you next about projectiles. Are those also
10 depicted on this?

2:57:46PM11 A. Yes, they are depicted on this as well.

2:57:49PM12 Q. Do you know approximately how many projectiles were
13 located on the scene itself?

2:57:53PM14 A. On the scene itself there were approximately 22
15 projectiles located.

2:58:05PM16 Q. I want to ask you about the term projectile. We talked
17 earlier about jackets and sort of lead cores, does that mean
18 both, or something separates them, what's that mean?

2:58:18PM19 A. When I use the term fired projectile, it can refer to
20 either a jacket or the lead core. I label them as a fired
21 projectile, which means it's something that was fired from the
22 gun. And then I turn them over to a firearms examiner and let
23 them determine what component of that fired projectile they
24 are.

2:58:35PM25 Q. So could one bullet end up being more than one projectile?

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2:58:38PM 1 A. Yes, it could. It could hit in the core, which would
2 separate, then technically they could both be labeled a fired
3 projectile, especially if they separated and ended up in
4 different areas of the room, they could be labeled a fired
5 projectile and not be associated with one another there.

2:58:56PM 6 Q. I'm going to show you Government's 56 and 57. Do you
7 recognize those?

2:59:13PM 8 A. Yes, I do.

2:59:15PM 9 MR. WILLIAMS: Show these to defense counsel.

2:59:23PM10 MS. PAAVOLA: Subject to our prior objection, we have
11 nothing further.

2:59:26PM12 THE COURT: Government 56 and 57 are admitted.

2:59:29PM13 (Government Exhibits 56 and 57 received.)

2:59:29PM14 BY MR. WILLIAMS:

2:59:29PM15 Q. I'm going to go to 56. Was this the area just inside that
16 doorway?

2:59:36PM17 A. Yes, this is the area just inside as the doorway -- as you
18 exit from outside the church into the entryway.

2:59:45PM19 Q. And what is item B?

2:59:46PM20 A. Item B is a fired projectile.

2:59:50PM21 MR. WILLIAMS: Miss Baker, can you focus on B?

2:59:54PM22 Q. Was that item seized from the scene as well?

2:59:57PM23 A. Yes, it was.

2:59:58PM24 Q. Approximately you said there was 22 total.

3:00:01PM25 A. That is correct.

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3:00:05PM 1 Q. I'm going to show you 59 and 59A. Do you recognize those?

3:00:16PM 2 A. Yes, I do.

3:00:17PM 3 Q. What are they?

3:00:18PM 4 A. These are fired projectiles that were collected from the
5 scene.

3:00:22PM 6 Q. And similar to the casings, did you bag those up so we
7 didn't have to go through them one at a time?

3:00:32PM 8 A. Yes, I did.

3:00:28PM 9 Q. So these are the projectiles from the scene?

3:00:31PM10 A. Yes, that is correct.

3:00:32PM11 Q. Those have your initials on them?

3:00:33PM12 A. Yes, they do.

3:00:36PM13 MR. WILLIAMS: Show this to defense counsel.

3:00:38PM14 THE COURT: They are 59 and 59A?

3:00:40PM15 MR. WILLIAMS: Yes, Your Honor.

3:00:49PM16 MS. PAAVOLA: No objection.

3:00:50PM17 THE COURT: Government 59 and 59A admitted without
18 objection.

3:00:53PM19 (Government Exhibits 59 and 59A received.)

3:00:53PM20 BY MR. WILLIAMS:

3:01:01PM21 Q. I'm going to show you Government's 58 as well. Do you
22 recognize that?

3:01:10PM23 A. Yes, I do.

3:01:11PM24 Q. What is it?

3:01:12PM25 A. It is the fired projectile that is depicted on the screen

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1 there that's collected from marker B.

3:01:21PM 2 Q. Is this typical of the other items, the other items in 59
3 and 59A?

3:01:28PM 4 A. Yes, it is.

3:01:48PM 5 Q. I'm going to zoom in on that. Is that the same fired
6 projectile that was located on the scene?

3:02:01PM 7 A. Yes, it is.

3:02:03PM 8 Q. Is that fairly typical of how a round looks when it
9 fragments or mushrooms?

3:02:09PM10 A. It depends on what the projectile has hit. If it hits a
11 harder surface, then it may be more deformed. Or it may
12 fragment more if it hits a softer surface, it does less damage
13 to it. But that is a good example as to what a bullet can
14 look like after it has been fired.

3:02:28PM15 Q. You had said that 22 rounds were located in the church.
16 Were fired rounds located from another location? Collected
17 from another location?

3:02:41PM18 A. Not -- no, I did not, not by me there were not.

3:02:50PM19 Q. So you supervised collecting them?

3:02:53PM20 A. From my location inside the church.

3:02:56PM21 Q. From autopsy?

3:02:57PM22 A. Yes.

3:02:59PM23 Q. Explain how that happens, how are items collected from the
24 medical examiner or from autopsy?

3:03:08PM25 A. So when a body is sent to be autopsied, the medical

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1 examiner collects any fired projectiles that may be present or
2 that they may find. She will or he will then sign a chain of
3 custody form and hand them to an agent. If the agent whose
4 case it is, in this case me, is not present, then another one
5 of our agents will go, and then they will then turn them over
6 to me via a chain of custody form. But that is all documented
7 through the signing of a form as well. But it's just all the
8 agent that goes to the autopsy does is pick them up, they've
9 already been sealed by the medical examiner, and transport
10 them back to the lab.

3:03:48PM11 Q. Were those brought to you?

3:03:50PM12 A. Yes, they would have been brought back to me at the lab.

3:03:53PM13 Q. And how many rounds, if any, were recovered from the
14 autopsy in total?

3:03:59PM15 A. Fifty-four.

3:04:02PM16 Q. So 22 on the scene, 54 from the autopsy?

3:04:05PM17 A. That is correct.

3:04:08PM18 Q. Show you Government's 98. Do you recognize that?

3:04:13PM19 A. Yes, I do.

3:04:14PM20 Q. What is it?

3:04:15PM21 A. These are the projectiles that were collected from the
22 autopsies of the victims.

3:04:20PM23 Q. Do you know how many were collected from the victims?

3:04:23PM24 A. If I can refresh my notes, I can tell you.

3:04:26PM25 MR. WILLIAMS: Let me first show this to defense

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1 counsel.

3:04:41PM 2 MS. PAAVOLA: No objection.

3:04:42PM 3 THE COURT: Let me just make sure -- What number is
4 that?

3:04:45PM 5 MR. WILLIAMS: 98, Your Honor.

3:04:47PM 6 THE COURT: That's 98. And that's admitted without
7 objection.

3:04:51PM 8 (Government Exhibit 98 received.)

3:04:51PM 9 THE COURT: Was 58 put in? I think you put it on the
10 ELMO, I wasn't sure.

3:04:59PM11 MR. WILLIAMS: If I hadn't, Your Honor, I apologize.
12 Is there an objection?

3:05:03PM13 MS. PAAVOLA: No, Your Honor.

3:05:04PM14 THE COURT: 58 is admitted without objection.

3:05:07PM15 (Government Exhibit 58 received.)

3:05:08PM16 BY MR. WILLIAMS:

3:05:08PM17 Q. So 98 is the -- all of the rounds that were recovered from
18 the autopsy?

3:05:12PM19 A. That is correct.

3:05:13PM20 Q. Do you have an idea of how many came from each victim?

3:05:16PM21 A. If I may refer to my notes.

3:05:17PM22 Q. Go ahead.

3:05:35PM23 A. There were four collected from Daniel Simmons, there were
24 five collected from Sharonda Singleton, there were three
25 collected from Pinckney, there were eight from Middleton

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1 Doctor, there were six from Hurd, and 11 -- what the medical
2 examiner described as 11 bullets, two jackets and multiple
3 fragments from Jackson. From Sanders there were four, from
4 Lance there were seven and from Thompson there were eight.

3:06:35PM 5 Q. I want to ask you about you testified earlier about
6 collecting items after something is moved. Were any -- is
7 there any evidence collected from underneath victims?

3:06:46PM 8 A. Yes, there was -- upon moving the victims, there was
9 cartridge cases, fired projectiles and fragments located in
10 their clothing or hair or underneath them, and then at that
11 point in time that was collected.

3:07:01PM12 Q. Do you know approximating how many projectiles were
13 located underneath people?

3:07:06PM14 A. There were, I believe, six projectiles that were collected
15 upon moving people. And those would have been found either on
16 their clothing, in their hair or underneath them at that
17 point.

3:07:22PM18 Q. And is that part of the 22 that you testified to earlier?

3:07:25PM19 A. Yes, it is.

3:07:28PM20 Q. I want to ask you finally about fragments. I think you
21 testified about magazines, fired rounds, and now a little bit
22 about fragments. Can you explain what those are again?

3:07:41PM23 A. When a bullet is fired, if it hits something, especially
24 if it hits something hard, then pieces of it can break off,
25 because that core is made of lead, and the outer -- the jacket

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1 can be made of -- is made of copper, and parts of that can
2 break off and leave fragments of a bullet behind. And those
3 pieces can range from a piece that's the size of the length of
4 the bullet to a little bitty tiny piece as well. So those are
5 what I mean when I say fragments, just pieces of bullet that's
6 broken off when it's hit something.

3:08:20PM 7 Q. I'm going to show you Government's 60, 61 and 62. If you
8 would look at those items. Do you recognize those?

3:08:50PM 9 A. I do.

3:08:51PM10 Q. And let's go over 60 first, that's the photograph?

3:08:54PM11 A. Yes, it is.

3:08:55PM12 Q. And does that show one of the items you collected?

3:08:58PM13 A. Yes, a photograph of a fragment that was from one of the
14 markers on scene.

3:09:03PM15 Q. And is 61 the physical item, that actual fragment?

3:09:08PM16 A. Yeah, 61 is the actual fragment that is presented in the
17 photograph.

3:09:13PM18 Q. What is 62?

3:09:14PM19 A. It is the rest of the fragments that were collected from
20 the scene.

3:09:16PM21 MR. WILLIAMS: I show these to defense counsel.

3:09:26PM22 MS. PAAVOLA: Your Honor, subject to our earlier
23 objections to 60, otherwise we have nothing further.

3:09:32PM24 THE COURT: Government 60 to 62 are admitted.

3:09:34PM25 (Government Exhibits 60, 61 and 62 received.)

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3:09:36PM 1 MR. WILLIAMS: Thank you.

3:09:36PM 2 BY MR. WILLIAMS:

3:09:37PM 3 Q. I'm going to put 60 up, if I could get the computer. And
4 so that QQQQ, is that the fragment that has the number 61?

3:09:54PM 5 A. Yes, the little copper reflective item there is the
6 fragment, and it's what's represented on -- it's
7 representative of item 61.

3:10:06PM 8 Q. How small of a size item are you capable of collecting,
9 given the size of that item?

3:10:12PM10 A. We can collect them as small as we can see them. They can
11 be tiny. If you think about anything that you can break and
12 it shatters, it can be the same type concept, and they can be
13 itty bitty pieces, as you see in that picture.

3:10:34PM14 Q. Did you collect, did you find items sort of smaller than
15 that that you did not collect because of their sort of value?

3:10:39PM16 A. We did see some pieces that we believed to be fragments
17 that were about the size of a pin head, and they forensically
18 can not do anything, we can not determine anything from them.
19 So due to the -- especially due to the amount of evidence that
20 we already were collecting and had there, and those having no
21 significant value or no forensic value actually, they were not
22 collected on scene.

3:11:11PM23 Q. I'm going to show you -- Let me ask you this first. Does
24 that effectively cover the items that were located on the
25 floor of the magazines, the fired rounds, the casings and the

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1 fragments?

3:11:22PM 2 A. Yes, it does.

3:11:23PM 3 Q. And obviously the two physical items, the belt and the
4 pouch?

3:11:27PM 5 A. Yes.

3:11:28PM 6 Q. I'm going to show you now Government's 63, 64, 73, 74, 75,
7 76. Would you look at those?

3:11:44PM 8 A. Okay.

3:12:07PM 9 Q. Are those all photos from the scene?

3:12:09PM10 A. Yes, they are.

3:12:09PM11 Q. Do they accurately depict the way they appeared?

3:12:13PM12 A. Yes, they do.

3:12:14PM13 MR. WILLIAMS: I show those to defense counsel, Your
14 Honor.

3:12:16PM15 MS. PAAVOLA: No objection, Your Honor.

3:12:18PM16 THE COURT: Government's 63, 64, 73, 74, 75 and 76
17 admitted without objection.

3:12:19PM18 (Government Exhibits 63, 64, 73, 74, 75 and 76 received.)

3:12:19PM19 BY MR. WILLIAMS:

3:12:20PM20 Q. You testified earlier about rounds that hit walls or hit a
21 ceiling. I don't want to go through all of those; I believe
22 you said you marked them on 48 with red marks?

3:12:32PM23 A. That is correct.

3:12:34PM24 Q. But as an example, I'm going to go to Government's 63.
25 Does that show a ceiling defect or a round that hit the

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1 ceiling?

3:12:43PM 2 A. Yes, it does. Well, in the part that's now magnified
3 there, that is where you can see there's a defect and there
4 was a projectile up in the ceiling there.

3:12:54PM 5 Q. I'm going to go to 64, which I think is a better close-up
6 of that. Does that show the same round in the ceiling tile?

3:13:03PM 7 A. Yes, it does. That shows where you can see the projectile
8 actually sticking out of the ceiling tile there.

3:13:10PM 9 Q. That is an example of once it hit the wall? I'm going to
10 go to Government's 73. What's that show?

3:13:19PM11 A. This is the wall up towards the front of the fellowship
12 hall area there where there is a what we called -- or I put
13 earlier suspected bullet defect underneath the light switch
14 there.

3:13:37PM15 Q. I'm going to go to 74. I'm going to zoom in on the two
16 taped-off areas. What does that show?

3:13:46PM17 A. These are walls in the front office where you can see
18 where the bullet came through. Those actually correspond to
19 the previous picture, it entered the wall underneath that
20 light switch, came out where there's an actual L shape there,
21 and then where there's more of a T shape, it expands, it hit
22 the wall at that area as well.

3:14:13PM23 Q. I'm going to go to -- so that's the back side of the same
24 wall we saw in the previous exhibit?

3:14:19PM25 A. That is correct.

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3:14:19PM 1 Q. 73. I'll go to 75. Is that the same room?

3:14:27PM 2 A. This is the same room. If you're looking at this chair,
3 the last bullet strike we talked about, it would have been on
4 the wall to the left of it and behind it.

3:14:39PM 5 Q. I'm going to go to 76. And is that the round that was
6 found inside that room?

3:14:48PM 7 A. Yes, that is the fired projectile that was found in the
8 room.

3:14:52PM 9 Q. That's an example of a round that would have gone through
10 a wall and ended up inside an office?

3:14:57PM11 A. Yes, that is correct.

3:15:02PM12 Q. I'm going to go to Government's 80 through 86 and show
13 those to you as well.

3:15:11PM14 THE COURT: What numbers?

3:15:12PM15 MR. WILLIAMS: 80, 81, 82, 83, 84, 85 and 86.

3:15:32PM16 Q. If you can look at those. Do those all accurately
17 represent the crime scene?

3:16:08PM18 A. Yes, they do.

3:16:10PM19 MR. WILLIAMS: I show these to defense counsel.

3:16:39PM20 MS. PAAVOLA: Your Honor, subject to our earlier
21 objections.

3:16:42PM22 THE COURT: Very good. Government's 80, 81, 82, 83,
23 84, 85 and 86 admitted.

3:16:48PM24 (Government Exhibits 80 through 86 received.)

3:16:48PM25 BY MR. WILLIAMS:

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3:16:49PM 1 Q. I want to take a look at 80 first. Can you describe
2 what's depicted in that photo?

3:16:56PM 3 A. This is when the -- one of the chairs that was located in
4 the area near where the victims were located and where those
5 circular tables were located down the center of the room.

3:17:09PM 6 Q. I'm going to go to 81. Does that show the damage to that
7 chair?

3:17:15PM 8 A. Yes, it does. This is the same chair, and you can see the
9 damage and a projectile that is wedged in between the plastic
10 and metal part of that chair there.

3:17:25PM11 Q. I'm going to go to 82. Is there a similar damage shown in
12 that photo?

3:17:32PM13 A. There is, there's damage that you can see along the cross
14 bar, on the legs of the table, so the leg goes down and then
15 there's a cross bar that goes across there, and you can see
16 some damage to that as well.

3:17:43PM17 Q. I'm going to go to 83, which I think is a close-up of
18 that. Is that consistent with a gunshot damage?

3:17:51PM19 A. Yes, it is.

3:17:53PM20 Q. Go to 84. Is that a similar strike underneath the table?

3:18:01PM21 A. Yes, it is.

3:18:03PM22 Q. Is that consistent with gunshot damage?

3:18:06PM23 A. Yes, it is consistent.

3:18:08PM24 Q. I'm going to go to 85. I believe you had testified
25 earlier that some of the damage to the tablecloths was

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1 visible. Does it show that damage?

3:18:20PM 2 A. Yes, this shows the damage that you can see to the
3 tablecloths.

3:18:25PM 4 Q. I'm going to go to 86. Is that damage to the table
5 underneath those same bullet holes that were in the
6 tablecloth?

3:18:37PM 7 A. Yes, this is a picture that shows that there were marks in
8 or defects in the table itself underneath the tablecloths that
9 had the defects in them.

3:18:52PM10 Q. I want to ask you about the term a floor strike, do you
11 know what that is?

3:18:59PM12 A. I'm sorry?

3:19:01PM13 Q. Do you know what the term a floor strike means?

3:19:03PM14 A. Like a ricochet where a bullet hits the floor.

3:19:07PM15 Q. Did you see any evidence of that in this case?

3:19:10PM16 A. There were some spots on the floor that were consistent
17 with a bullet defect, yes.

3:19:16PM18 Q. And can you explain how that -- what evidence you see of
19 that when you -- I guess what you found in this crime scene
20 that was consistent with it?

3:19:25PM21 A. So when you look at a defect in the floor, you can look at
22 the directionality in their striations that are actually left
23 by the bullet, and it can be dependent upon the type of
24 flooring that it is or whether or not there was something over
25 the floor like a rug or something like that can have an effect

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1 on it as well.

3:19:47PM 2 Q. I'm going to hand you Government's 91, 92, 93, 94 and 95.

3 Are those all photos that fairly and accurately represent the
4 crime scene?

3:20:21PM 5 A. Yes, they are.

3:20:22PM 6 MR. WILLIAMS: I show these to defense counsel.

3:20:33PM 7 MS. PAAVOLA: Subject to our earlier objections, Your
8 Honor, nothing further.

3:20:36PM 9 THE COURT: Very good. The Government 91, 92, 93, 94
10 and 95 are admitted.

3:20:42PM11 (Government Exhibits 91 through 95 received.)

3:20:42PM12 BY MR. WILLIAMS:

3:20:43PM13 Q. I'm going to call up 91 first. Can you explain to the
14 jury what that is?

3:20:48PM15 A. This is a bullet defect that was located in the floor of
16 the church.

3:20:54PM17 Q. I'm going to go to 92.

3:21:00PM18 A. This is again the defect that was located in the floor.

3:21:06PM19 Q. And then go to 93. Different defect?

3:21:11PM20 A. Yes.

3:21:13PM21 Q. Same thing though, a strike mark around a victim on the
22 floor?

3:21:18PM23 A. Yes, it is.

3:21:19PM24 Q. Go to Government's 94. Is that a similar mark in a
25 different location?

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3:21:27PM 1 A. Yes, it is.

3:21:29PM 2 Q. And finally 95. What was that item?

3:21:35PM 3 A. This item was a cell phone that appeared to have had a
4 bullet defect to it as well.

3:21:43PM 5 Q. I want to ask you if the holes in the tables, the rounds
6 found under people, the damage to the tablecloths, the floor
7 strikes, are those all consistent with people being shot while
8 underneath those tables?

3:22:00PM 9 A. It is consistent with the shots going underneath the
10 tables with somebody standing and firing at the tables, with
11 the damage to the table and the damage to the tablecloths,
12 yes.

3:22:16PM13 Q. And as well as rounds being found under people who may
14 have been laying down when they were shot?

3:22:21PM15 A. Yes, it is possible.

3:22:25PM16 Q. So I want to ask you briefly about evidence being sent for
17 testing. I think you testified about that earlier that you
18 had some responsibility in getting evidence sent out for
19 testing?

3:22:38PM20 A. That is correct.

3:22:40PM21 Q. Explain to the jury how that works at SLED.

3:22:46PM22 A. How the evidence testing process works?

3:22:48PM23 Q. Yeah, I mean, who makes those decisions and what's the
24 process?

3:22:51PM25 A. So for when deciding what to process, I will meet with

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1 whoever is going to be the lead investigator with the case, or
2 in this case, lead investigators. I met with people from
3 Charleston police department as well as people with SLED, and
4 we decided what items we wanted to be tested and what items to
5 send to the lab and what items we thought would be most
6 beneficial there in order for us to get the best results for
7 testing there.

3:23:26PM 8 Q. What type of testing are you talking about, what can be
9 done?

3:23:30PM10 A. There are all sorts of different things that can be done
11 testing-wise. You can do DNA, latent prints, we have a
12 firearms unit that can test and do firearms analysis. There
13 is a trace unit in case you have any trace evidence that can
14 do hairs and fibers and things of that nature, or any type of
15 trace material, as well as other testing that can be done at
16 the lab.

3:23:56PM17 Q. Were items in this case sent for fingerprint testing?

3:24:00PM18 A. Yes.

3:24:01PM19 Q. And I'm talking about items in this case, from this crime
20 scene at the church?

3:24:05PM21 A. Yes, the magazines were sent for latent print testing.

3:24:11PM22 Q. And I want to ask you, just generally speaking, was items
23 also sent for ballistic testing?

3:24:18PM24 A. Yes, they were.

3:24:18PM25 Q. Are you familiar with the term chain of custody?

BRITTANY BURKE - DIRECT EXAMINATION

3:24:21PM 1 A. Yes, I am.

3:24:21PM 2 Q. What's a chain of custody?

3:24:23PM 3 A. A chain of custody is a document that tells where the
4 evidence went. So the chain of custody for this evidence all
5 started with me. I was the lead agent at the crime scene. I
6 collected all of the evidence and I took it back to SLED.
7 From there, I logged it into our computer system. That then
8 begins an electronic chain of custody. And how that works is
9 each agent has a bar code, and when they receive the evidence,
10 they scan the bar code that's assigned to the evidence, and
11 it's from their bar code. So it keeps up with who touched
12 that evidence and what time they had that there. But all of
13 that began with me when I submitted the evidence, since I was
14 the one that collected it.

3:25:10PM15 Q. Is that all kept in the log?

3:25:11PM16 A. It is. Like I said, it's all -- once it gets to the lab,
17 it's all computer there, so the computer creates a log of each
18 person, and what time they got the evidence and what date and
19 time they gave it to somebody else, and that is all put into a
20 log.

3:25:28PM21 Q. Basically every person that's touched the item from the
22 time it came to you till the time it may have been sent back
23 to the appropriate agency?

3:25:35PM24 A. That is correct.

3:25:36PM25 Q. I'm going to show you Government's 97. Do you recognize

BRITTANY BURKE - DIRECT EXAMINATION

1 that item?

3:25:45PM 2 A. Yes, this is the chain of custody for the evidence in this
3 case.

3:25:51PM 4 Q. You said it was a document; is that a pretty long
5 document?

3:25:54PM 6 A. Yes, it's a very long document.

3:25:55PM 7 Q. And that would show every person that's handled the item
8 to show its sort of reliability and proof of custody?

3:26:03PM 9 A. That is correct.

3:26:05PM10 MR. WILLIAMS: Show this to defense counsel, Your
11 Honor.

3:26:17PM12 MS. PAAVOLA: No objection.

3:26:18PM13 THE COURT: Government 97 is admitted without
14 objection.

3:26:21PM15 (Government Exhibit 97 received.)

3:26:21PM16 BY MR. WILLIAMS:

3:26:27PM17 Q. I asked you earlier, you had some other roles in this case
18 apart from processing this crime scene, is that right?

3:26:33PM19 A. That is correct.

3:26:33PM20 Q. You had actually processed a car later on?

3:26:36PM21 A. Yes. I did.

3:26:41PM22 MR. WILLIAMS: Your Honor, I'm going to -- I don't
23 have any further questions. I would ask the Court's
24 permission to re-call her at the appropriate time to detail
25 other activity she had in the case.

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3:26:49PM 1 THE COURT: Very good. Cross-examination.

3:26:52PM 2 MS. PAAVOLA: Your Honor, can we have a short break

3 to confer with our client, please?

3:26:56PM 4 THE COURT: Sure. We'll take our afternoon break.

3:27:07PM 5 (Jury excused.)

3:34:59PM 6 (A recess was held at this time.)

3:49:57PM 7 THE COURT: Okay. Bring back the jury, please.

3:50:00PM 8 (Jury present.)

3:51:15PM 9 THE COURT: Cross-examination by the defense.

3:51:16PM10 MS. PAAVOLA: Your Honor, the Government has advised

11 this witness will be re-called at a later point, so we are

12 going to reserve cross-examination until that time.

3:51:24PM13 THE COURT: That would be completely proper. That

14 request is granted. You may step down.

3:51:30PM15 A. Thank you.

3:51:40PM16 MR. CURRAN: Government calls Keon Gordon, Your

17 Honor.

3:51:43PM18 THE COURT: Very good.

3:52:04PM19 THE CLERK: State your full name for the record.

3:52:06PM20 A. Keon Gordon.

3:52:10PM21 KEON GORDON, a witness called by the Government, first

22 having been duly sworn, testified as follows:

3:52:27PM23 DIRECT EXAMINATION

3:52:27PM24 BY MR. CURRAN:

3:52:33PM25 Q. Good afternoon, Mr. Gordon. For the record, your name is

KEON GORDON - DIRECT EXAMINATION

1 Keon Gordon, correct?

3:52:38PM 2 A. Yes.

3:52:38PM 3 Q. And how old are you?

3:52:40PM 4 A. I'm 26.

3:52:42PM 5 Q. And where are you from?

3:52:45PM 6 A. I'm from the Summerville area.

3:52:57PM 7 Q. All right. You're from the Charleston area generally.

3:52:59PM 8 A. Yes, sir.

3:53:00PM 9 Q. Have you lived here more or less all of your life?

3:53:03PM10 A. Yes, sir.

3:53:04PM11 Q. Did you go to high school, for example, in Charleston?

3:53:08PM12 A. I went to Summerville High.

3:53:10PM13 Q. And did you go to college?

3:53:15PM14 A. Yes, sir.

3:53:15PM15 Q. Where did you go to college?

3:53:16PM16 A. University of South Carolina.

3:53:20PM17 Q. Which campus?

3:53:21PM18 A. Columbia.

3:53:22PM19 Q. Did you get a degree from the University of South
20 Carolina?

3:53:27PM21 A. Yes, sir, I got a bachelor of science in electrical
22 engineering.

3:53:29PM23 Q. Are you employed now?

3:53:30PM24 A. Yes.

3:53:31PM25 Q. Where do you work?

KEON GORDON - DIRECT EXAMINATION

3:53:32PM 1 A. I work for Santee Cooper.

3:53:34PM 2 Q. And what do you do?

3:53:38PM 3 A. I'm a field engineer.

3:53:39PM 4 Q. Is that related to your college degree?

3:53:41PM 5 A. Yes, sir.

3:53:51PM 6 MR. CURRAN: Your Honor, we're pulling up what's
7 previously been admitted as Government's Exhibit 16.

3:53:57PM 8 THE COURT: Very good.

3:53:57PM 9 BY MR. CURRAN:

3:53:58PM10 Q. If you look on your monitor, Mr. Gordon, you'll see a
11 picture of an individual. Do you know this person?

3:54:04PM12 A. Yes, sir.

3:54:07PM13 Q. Have you ever met him before in person?

3:54:09PM14 A. Yes, sir.

3:54:10PM15 Q. How many times?

3:54:13PM16 A. Dozens of times.

3:54:14PM17 Q. And do you know this person's name?

3:54:16PM18 A. Yes, it is Tywanza Sanders.

3:54:20PM19 Q. Is this the same Tywanza Sanders that was killed in the
20 Emanuel AME shootings last year?

3:54:26PM21 A. Yes, sir, it is.

3:54:31PM22 Q. When did you first meet Mr. Sanders?

3:54:32PM23 A. Around 2006 or 2007.

3:54:34PM24 Q. Is that when you were in high school?

3:54:36PM25 A. Yes, sir.

KEON GORDON - DIRECT EXAMINATION

3:54:37PM 1 Q. And how did you meet Mr. Sanders?

3:54:39PM 2 A. We both had mutual friends.

3:54:43PM 3 Q. Describe your relationship with Mr. Sanders at that time.

3:54:49PM 4 A. At the time I met him?

3:54:51PM 5 Q. Yeah.

3:54:52PM 6 A. We went to different schools, and I pretty much saw him, I
7 guess you would say on the party scene a good bit and just
8 hanging out through mutual friends.

3:55:00PM 9 Q. Kind of run in the same crowd?

3:55:02PM10 A. Yes, sir.

3:55:02PM11 Q. And did you consider Mr. Sanders to be a friend?

3:55:05PM12 A. Yes, sir.

3:55:07PM13 Q. And do you know if Mr. Sanders went to college?

3:55:09PM14 A. Yes, sir, he did.

3:55:11PM15 Q. Where did he go to college?

3:55:13PM16 A. He went to college at Allen, which is also in Columbia.

3:55:19PM17 Q. Did you maintain your friendship with Mr. Sanders when you
18 both were in college --

3:55:22PM19 A. Yes, sir.

3:55:22PM20 Q. -- in Columbia at the same time?

3:55:24PM21 A. Yes, sir.

3:55:26PM22 Q. And was it somewhat before part of a mutual group of
23 friends?

3:55:32PM24 A. Yes.

3:55:34PM25 Q. And did that friendship continue after you finished

KEON GORDON - DIRECT EXAMINATION

1 college?

3:55:38PM 2 A. Yes, sir, it did.

3:55:41PM 3 Q. For example, were you close enough with Mr. Sanders that
4 you knew what he did for a living?

3:55:47PM 5 A. Yes, he was a barber.

3:55:49PM 6 Q. And how do you know that?

3:55:51PM 7 A. Well, I got a few haircuts from him back when I had hair.

3:55:59PM 8 THE COURT: Pretty good evidence.

3:56:03PM 9 Q. I suspect he's not responsible for the way you look right
10 now. Did you go to his barber shop?

3:56:08PM11 A. No, sir, this was when we were in college, so it was more
12 like going to a friend's house, or him coming over to where we
13 stayed at and just giving a quick haircut.

3:56:17PM14 Q. So that's the kind of friendship you had with him, you
15 would get your hair cut by him at mutual friends' house?

3:56:24PM16 A. Yes, sir.

3:56:25PM17 Q. What about social media? Do you know what I mean when I
18 talk -- when I say social media?

3:56:31PM19 A. Yes.

3:56:32PM20 Q. All right. Did you maintain your friendship with him
21 through social media?

3:56:36PM22 A. Yes, sir.

3:56:37PM23 Q. What forms of social media would you use to maintain your
24 relationship with Mr. Sanders?

3:56:45PM25 A. FaceBook, Snapchat.

KEON GORDON - DIRECT EXAMINATION

3:56:49PM 1 Q. I turn to June 17th and June 18th of last year.

2 June 17th was the night of the shootings at Emanuel AME. When

3 did you first learn that Mr. Sanders had been killed in that

4 shooting?

3:57:05PM 5 A. It was the morning after the shooting.

3:57:08PM 6 Q. And how did you learn about that?

3:57:10PM 7 A. When I woke up to go to work I had a couple text messages

8 from different friends --

3:57:15PM 9 Q. Go ahead, I'm sorry.

3:57:16PM10 A. -- telling me what had happened.

3:57:18PM11 Q. Or that mutual group of friends that you were talking

12 about?

3:57:21PM13 A. Yes.

3:57:21PM14 Q. And what did you do when you initially got those texts?

3:57:25PM15 A. I went and cut the news on to see, you know, what was

16 going on, and trying to get some details about what was

17 happening.

3:57:31PM18 Q. And what was your reaction when you found out?

3:57:35PM19 A. I honestly couldn't believe what had happened really.

3:57:38PM20 Q. Why not?

3:57:40PM21 A. It just seemed surreal that someone would do something

22 like that.

3:57:44PM23 Q. Did you go to work that day?

3:57:46PM24 A. Yes, sir.

3:57:48PM25 Q. When you went to work that day did you continue to look

KEON GORDON - DIRECT EXAMINATION

1 for updates on what had happened the night before?

3:57:55PM 2 A. Yes, I did.

3:57:56PM 3 Q. And did you, as part of that, did you check your social
4 media during the day?

3:58:01PM 5 A. Yes, I did.

3:58:03PM 6 Q. And did you notice anything unusual, anything unusual in
7 your social media?

3:58:09PM 8 A. I noticed that on Snapchat that Tywanza had actually
9 uploaded something on there.

3:58:15PM10 Q. All right. So Mr. Sanders had uploaded something on
11 Snapchat?

3:58:21PM12 A. Yes.

3:58:23PM13 Q. Let's talk about Snapchat for a second. Many of the
14 jurors may understand what Snapchat is, some of them may not.
15 What is your understanding of what Snapchat is?

3:58:35PM16 A. Snapchat is a video application which allows users to take
17 short videos and post them for people to see on the
18 application.

3:58:43PM19 Q. All right. So correct me if I'm wrong, but if someone
20 creates a video, they can post it on the Snapchat website, is
21 that correct?

3:58:52PM22 A. Correct.

3:58:53PM23 Q. And then somehow you can view it from the Snapchat
24 website; is that how it works?

3:58:58PM25 A. If you are friends with that person, you can view the

KEON GORDON - DIRECT EXAMINATION

1 content that they post.

3:59:02PM 2 Q. When you view it, do you receive an actual copy of that
3 video?

3:59:08PM 4 A. I'm allowed to go on his profile and actually watch what
5 he's uploaded.

3:59:12PM 6 Q. So the video is not actually on whatever device you are
7 using, a computer, your phone or iPad or tablet, it's not
8 actually on your device.

3:59:21PM 9 A. Correct.

3:59:24PM10 Q. At that time -- Strike that. So all you could do with
11 Snapchat at that time was view it?

3:59:32PM12 A. Correct.

3:59:33PM13 Q. For how long in that time frame would you have access to
14 the video?

3:59:39PM15 A. The videos last for 24 hours and then they delete
16 themselves.

3:59:44PM17 Q. And why is that? Is that --

3:59:47PM18 A. That's just how it works.

3:59:48PM19 Q. Just a Snapchat rule?

3:59:50PM20 A. Yes.

3:59:53PM21 Q. So you mentioned that Mr. Sanders had posted the video,
22 correct?

3:59:59PM23 A. Correct.

4:00:00PM24 Q. How did you know that?

4:00:02PM25 A. When you go through the profile it shows you your friends

KEON GORDON - DIRECT EXAMINATION

1 and if they have posted anything or not.

4:00:08PM 2 Q. And how does the -- well, how does that work? Just
3 briefly explain, how do you identify --

4:00:15PM 4 A. Pretty much you can scroll down and it will just appear in
5 your profile if someone has posted anything recent that you
6 have not looked at yet.

4:00:22PM 7 Q. So you open up the Snapchat app? Application.

4:00:26PM 8 A. Um-hum.

4:00:27PM 9 Q. And then it will show you what you've gotten from your
10 friends.

4:00:30PM11 A. Correct.

4:00:32PM12 Q. When you opened -- on June 18th, when you opened up your
13 Snapchat app and you saw that you had something from
14 Mr. Sanders -- Actually you had had a notification that he had
15 posted something; how many videos had he posted?

4:00:48PM16 A. There were two in there.

4:00:50PM17 Q. And did you view them both?

4:00:51PM18 A. Yes, sir.

4:00:53PM19 Q. What did you see? Just generally describe what the two
20 videos were.

4:00:59PM21 A. The first was him at the barber shop talking with some
22 people, and then the second one was him in Bible study.

4:01:12PM23 Q. Could you repeat that second answer? What was the second
24 one?

4:01:14PM25 A. The second one was snap of him in Bible study.

KEON GORDON - DIRECT EXAMINATION

4:01:24PM 1 Q. The second one you said was from the Bible study the night
2 before, is that correct?

4:01:29PM 3 A. Yes, sir.

4:01:30PM 4 Q. What made you think that it was from the Bible study the
5 night before?

4:01:34PM 6 A. The time, and also the title across the video.

4:01:38PM 7 Q. And do you recall right now exactly what the title was
8 across the video?

4:01:44PM 9 A. It was a reference to Bible study. I'm not sure
10 completely.

4:01:47PM11 Q. So within that title there was a reference to Bible study?

4:01:51PM12 A. Correct.

4:01:55PM13 Q. Pretty good indicator that it was from the Bible study.

4:01:54PM14 A. Correct.

4:01:55PM15 Q. What was your reaction when you received that?

4:01:58PM16 A. I thought it was very strange to see, you know, the last
17 thing he posted was still there.

4:02:04PM18 Q. And what did you do in reaction, after you realized that
19 he had posted a video?

4:02:12PM20 A. Attempted to save the video, since it would delete in a
21 few more hours.

4:02:17PM22 Q. And what did you do in your attempt to save it? How did
23 you do that?

4:02:22PM24 A. I had some --

4:02:23PM25 Q. Let me stop you. Could you save it on your phone?

KEON GORDON - DIRECT EXAMINATION

4:02:26PM 1 A. No, I could not.

4:02:27PM 2 Q. So when you get -- Snapchat wouldn't allow you to save it
3 to your own phone?

4:02:31PM 4 A. No, I can not save anyone else's videos to my phone.

4:02:35PM 5 Q. So what did you do to try to save it?

4:02:37PM 6 A. I had to use another phone to actually record the video.

4:02:41PM 7 Q. And did you do that?

4:02:42PM 8 A. Yes, sir.

4:02:44PM 9 Q. Why did you want to preserve it?

4:02:48PM 10 A. Just because it was the last thing he posted, I thought,
11 you know, that would be something worth keeping.

4:02:55PM 12 Q. Did you notice anything in the video when you looked at it
13 that made you also want to preserve it?

4:03:01PM 14 A. Yes, sir.

4:03:02PM 15 Q. And what was that?

4:03:03PM 16 A. In the corner of the video you could see the accused
17 killer in it.

4:03:07PM 18 Q. So you believed that you could see the individual accused
19 of carrying out the killings in the video?

4:03:16PM 20 A. Yes, sir.

4:03:17PM 21 Q. All right. And why did you believe that? What about the
22 video made you think that?

4:03:23PM 23 A. Just seeing the news reports and kind of seeing the videos
24 they posted about them, and then just noticing that it was a
25 white individual in the actual snap that resembled what the

KEON GORDON - DIRECT EXAMINATION

1 news was posting.

4:03:35PM 2 Q. And so the person you saw resembled, to you, what you had
3 heard about a description of the killer in the news reports?

4:03:44PM 4 A. Correct.

4:03:45PM 5 Q. All right. So how did you -- well, I think you already
6 stated this, but how -- what did you do with the video to
7 begin the process of saving it?

4:03:56PM 8 A. Used someone else's phone to actually record the video and
9 then send it to myself.

4:04:00PM10 Q. How did you send it to yourself?

4:04:02PM11 A. I believe it was through like a text message.

4:04:04PM12 Q. So you copied it onto someone else's phone, then texted it
13 to yourself.

4:04:10PM14 A. Yes, sir.

4:04:10PM15 Q. What did you do with the file that you had, the video file
16 you had just texted to yourself?

4:04:16PM17 A. I kept it.

4:04:18PM18 Q. And did you do anything else on your own phone to attempt
19 to preserve portions of the video?

4:04:29PM20 A. Yes, I actually took a screen shot of it.

4:04:31PM21 Q. One screen shot?

4:04:33PM22 A. Three.

4:04:33PM23 Q. So you took three screen shots of it as well?

4:04:36PM24 A. Correct.

4:04:38PM25 Q. Did you take the screen shots on your own phone or on your

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1 friend's phone?

4:04:42PM 2 A. This is on my own phone.

4:04:43PM 3 Q. So after you were done with this, and you would have had
4 four files on your phone, the video that you texted to
5 yourself, and the three screen shots, correct?

4:04:53PM 6 A. Yes, sir.

4:04:56PM 7 Q. And did you save those screen shots as well?

4:04:58PM 8 A. Yes.

4:05:17PM 9 Q. I'm handing you what's been marked for purposes of
10 identification at this point as Government's Exhibit 99. Just
11 take a quick look at it. Are you familiar with this exhibit?

4:05:30PM12 A. Yes, sir, I am.

4:05:31PM13 Q. Did you review that exhibit before you testified today?

4:05:34PM14 A. Yes, sir.

4:05:35PM15 Q. How do you know that?

4:05:36PM16 A. I saw it and I signed and dated it.

4:05:39PM17 Q. And did you review what was on that? Well, it's a DVD
18 that you have in your hand, correct?

4:05:50PM19 A. Yes, sir.

4:05:50PM20 Q. Did you review the video that's on that DVD?

4:05:54PM21 A. Yes, sir.

4:05:55PM22 Q. And what is it?

4:05:56PM23 A. It is the video that -- it is a video of what I took.

4:05:59PM24 Q. Was it a copy of the Snapchat video that --

4:06:03PM25 A. Yes, sir.

KEON GORDON - DIRECT EXAMINATION

4:06:03PM 1 Q. -- that file that you sent to yourself? All right. Is it
2 a complete and accurate copy of that video?

4:06:10PM 3 A. Yes, sir, it is.

4:06:12PM 4 MR. CURRAN: Your Honor, we'd move for admission of
5 Government's Exhibit 99.

4:06:15PM 6 THE COURT: Very good. Is there an objection?

4:06:18PM 7 MS. PAAVOLA: No objection.

4:06:19PM 8 THE COURT: Government 99 is admitted without
9 objection.

4:06:21PM10 (Government Exhibit 99 received.)

4:06:38PM11 MR. CURRAN: If you look on your screen, Your Honor,
12 we are publishing -- we request permission to publish it to
13 the jury, Your Honor.

4:06:46PM14 THE COURT: You have the Court's permission.

4:06:48PM15 BY MR. CURRAN:

4:06:49PM16 Q. On your screen is a copy of Government's Exhibit 99, and
17 I'm going to ask Miss Baker to play it through and then I will
18 ask you some questions about it, Mr. Sanders.

4:07:04PM19 (Video played.)

4:07:14PM20 Q. All right. Go back, please. It appears -- the video
21 appears to be about ten seconds long. Is that consistent with
22 Snapchat videos at that time?

4:07:25PM23 A. Yes, sir.

4:07:25PM24 Q. Are they basically ten seconds long --

4:07:27PM25 A. Around that.

KEON GORDON - DIRECT EXAMINATION

4:07:28PM 1 Q. -- or shorter?

4:07:29PM 2 A. Um-hum.

4:07:30PM 3 Q. We're going to go back to the start, and on your screen
4 you have what is displayed at the beginning of the file. What
5 is displayed here?

4:07:42PM 6 A. So when I opened up my -- the application on my phone,
7 this is the list of people that I'm friends with, and this
8 allows me to view their content that they post.

4:07:52PM 9 Q. So this is the friends list you were talking about before?

4:07:54PM10 A. Yes, sir.

4:07:55PM11 Q. And there's -- looks to be a thumbnail or at least a
12 fingernail there. Is that your fingernail?

4:08:02PM13 A. Yes, sir.

4:08:02PM14 Q. And what is it next to on your friend list?

4:08:06PM15 A. It's next to Wanza's profile.

4:08:09PM16 Q. And what are you actually doing with your finger at that
17 point?

4:08:14PM18 A. In order to view what he's posted, I have to actually
19 physically touch it.

4:08:19PM20 MR. CURRAN: And if you just advance it there.

4:08:33PM21 (Video played.)

4:08:35PM22 Q. Okay. Now, across the middle of the video is a banner
23 with some text; you see that?

4:08:44PM24 A. Correct.

4:08:49PM25 Q. That's where you're referring to earlier when you said

KEON GORDON - DIRECT EXAMINATION

1 there was something about a Bible study on the video?

4:08:50PM 2 A. Yes, sir.

4:08:50PM 3 Q. Did you put that on there?

4:08:52PM 4 A. No, sir.

4:08:52PM 5 Q. Did you alter this video in any way other than to text it
6 to yourself and copy it?

4:08:58PM 7 A. No, sir.

4:08:59PM 8 Q. So was that on the video as it was posted to Snapchat?

4:09:03PM 9 A. Yes, sir, it was.

4:09:08PM10 Q. Do you know any of the individuals in this photo?

4:09:10PM11 A. No, sir.

4:09:13PM12 Q. You mentioned that earlier that you believed that one of
13 the individuals in this photo or in this video could have been
14 the killer.

4:09:24PM15 A. Yes, sir.

4:09:24PM16 Q. Correct? Do you see the person you identified as such in
17 this particular frame?

4:09:29PM18 A. Yes, sir, he looked to the far right of the video.

4:09:35PM19 Q. And if you look to the far right, about how far down the
20 video were you referring to?

4:09:43PM21 A. Maybe midway.

4:09:46PM22 Q. And have you shown me, previous to this, where you believe
23 that person is?

4:09:51PM24 A. Yes, sir.

4:09:52PM25 Q. I'm going to circle on the screen, and tell me if I've got

KEON GORDON - DIRECT EXAMINATION

1 it correct.

4:09:58PM 2 A. Yes, sir. That is correct.

4:10:08PM 3 Q. Now, the screen shots, are they a little bit clearer than
4 the video?

4:10:13PM 5 A. Yes.

4:10:22PM 6 MR. CURRAN: For the record, I'm handing the witness
7 what's been previously marked as Government's Exhibit 100 for
8 identification.

4:10:29PM 9 Q. Please review that, Mr. Sanders. Excuse me, Mr. Gordon.
10 Are you familiar with this exhibit?

4:10:40PM11 A. Yes, sir.

4:10:41PM12 Q. Did you review this exhibit before you testified today?

4:10:44PM13 A. Yes, sir, I did.

4:10:45PM14 Q. What is it?

4:10:47PM15 A. It is one of three screen shots that I took.

4:10:51PM16 Q. Is it a complete and accurate copy of one of those screen
17 shots?

4:10:54PM18 A. Yes, sir.

4:10:55PM19 MR. CURRAN: Your Honor, we'd move for its admission
20 at this time.

4:10:59PM21 MS. PAAVOLA: No objection.

4:11:00PM22 THE COURT: Government 100 is admitted without
23 objection.

4:11:02PM24 (Government Exhibit 100 received.)

4:11:02PM25 BY MR. CURRAN:

KEON GORDON - DIRECT EXAMINATION

4:11:15PM 1 Q. And why did you take a screen shot?

4:11:19PM 2 A. I wanted to get a still picture of who I believed was --

3 who I thought the killer at the time in the video.

4:11:25PM 4 Q. And that would be the individual you pointed out earlier?

4:11:28PM 5 A. Yes, sir.

4:11:29PM 6 Q. And I'm going to circle again, and tell me if this is the

7 person you're referring to.

4:11:35PM 8 A. Yes, sir, that's correct.

4:11:50PM 9 MR. CURRAN: For the record, Your Honor, if I haven't

10 moved for admission of this --

4:11:56PM11 THE COURT: 100 is admitted.

4:11:59PM12 MR. CURRAN: I'm handing the witness what's been

13 previously marked as Government Exhibit 100. 101, excuse me.

4:12:08PM14 Q. Please review that exhibit, Mr. Gordon. Are you familiar

15 with that exhibit?

4:12:15PM16 A. Yes, sir.

4:12:16PM17 Q. Did you review it before you testified today?

4:12:18PM18 A. Yes.

4:12:18PM19 Q. And what is that exhibit?

4:12:20PM20 A. It's another one of the three screen shots that I took.

4:12:26PM21 MR. CURRAN: We'd move for --

4:12:27PM22 Q. Is that a complete and accurate copy of the screen shot?

4:12:30PM23 A. Yes, sir.

4:12:30PM24 MR. CURRAN: We'd move for its admission, Your Honor.

4:12:33PM25 MS. PAAVOLA: No objection.

KEON GORDON - DIRECT EXAMINATION

4:12:34PM 1 THE COURT: Government 101 is admitted without
2 objection.

4:12:36PM 3 (Government Exhibit 101 received.)

4:12:36PM 4 MR. CURRAN: And publish it to the jury?

4:12:38PM 5 THE COURT: You may.

4:12:39PM 6 BY MR. CURRAN:

4:12:39PM 7 Q. Now, is this very similar to the one you took before?

4:12:43PM 8 A. Yes, sir, it is.

4:12:43PM 9 Q. Why did you take two?

4:12:46PM10 A. Just difficult trying to get that particular shot.

4:12:50PM11 Q. And why were you interested in trying to get that
12 particular shot?

4:12:54PM13 A. Just trying to get a clearer picture of who that is on the
14 right side of the video.

4:13:08PM15 MR. CURRAN: I'm now handing what's been marked for
16 purposes of identification as Government's Exhibit 102.

4:13:17PM17 Q. Mr. Gordon, if you would review that exhibit. Now, are
18 you familiar with that exhibit?

4:13:30PM19 A. Yes, sir.

4:13:30PM20 Q. And what is it?

4:13:31PM21 A. That's another one of -- it's the third of the three
22 screen shots that I took.

4:13:35PM23 Q. That's the third of the three screen shots?

4:13:37PM24 A. Yes, sir.

4:13:37PM25 Q. Is it a complete and accurate copy of that screen shot?

KEON GORDON - DIRECT EXAMINATION

4:13:40PM 1 A. Yes, sir.

4:13:43PM 2 MR. CURRAN: And we'd move for its admission, Your
3 Honor.

4:13:45PM 4 THE COURT: Any objection?

4:13:46PM 5 MS. PAAVOLA: No objection.

4:13:47PM 6 THE COURT: 102 is admitted without objection, and
7 permission to publish.

4:13:51PM 8 (Government Exhibit 102 received.)

4:13:52PM 9 BY MR. CURRAN:

4:13:54PM10 Q. And this appears to be a further in, if you look at the
11 upper right it says eight on the top; does that mean eight
12 seconds left in the video?

4:14:03PM13 A. Correct.

4:14:03PM14 Q. And it's very different in terms of people that it
15 pictures in the frame. Why did you take this screen shot?

4:14:09PM16 A. I was still attempting to get one of the first two, and it
17 was just difficult to try and get it as soon as the video
18 started.

4:14:16PM19 Q. So this is essentially a mistake you made while you were
20 trying to get the other two?

4:14:21PM21 A. Yes, sir.

4:14:22PM22 Q. What did you do with these videos and screen shots after
23 you saved them?

4:14:28PM24 A. I then turned them over to the FBI.

4:14:31PM25 Q. And did you give that on your phone in its entirety so

KEON GORDON - DIRECT EXAMINATION

1 they could copy them?

4:14:36PM 2 A. Yes, sir, they took my phone and downloaded the
3 information off of it.

4:14:42PM 4 MR. CURRAN: No further questions, Your Honor.

4:14:44PM 5 THE COURT: Cross-examination.

4:14:45PM 6 MS. PAAVOLA: No questions for Mr. Gordon, Your
7 Honor.

4:14:47PM 8 THE COURT: Thank you, Mr. Gordon, you may step down,
9 sir.

4:15:09PM10 MR. WILLIAMS: Call the next witness, Your Honor?

4:15:10PM11 THE COURT: Government call your next witness.

4:15:12PM12 MR. WILLIAMS: Thank you. Government calls Brian
13 Womble.

4:15:26PM14 THE CLERK: State your full name for the record.

4:15:27PM15 A. Brian S. Womble. W-O-M-B-L-E.

4:15:33PM16 BRIAN WOMBLE, a witness called by the Government, first
17 having been duly sworn, testified as follows:

DIRECT EXAMINATION

4:15:38PM18 BY MR. WILLIAMS:

4:15:53PM20 Q. Sir, can you tell the jurors where you work?

4:15:55PM21 A. I work for the FBI.

4:15:57PM22 Q. What do you do at the FBI?

4:15:59PM23 A. I'm a supervisor of the Charleston FBI office.

4:16:17PM24 Q. You said -- what did you say your position is with the FBI
25 right now?

KEON GORDON - DIRECT EXAMINATION

4:16:21PM 1 A. I'm the supervisor of the Charleston office.

4:16:23PM 2 Q. How long have you been the supervisor in Charleston?

4:16:25PM 3 A. I've been the supervisor here for the last six and a half
4 years. Previous to that I was a supervisor in the public
5 corruption unit in Washington, D.C. I've been with the FBI
6 since 1999.

4:16:36PM 7 Q. What did you do before you worked for the FBI?

4:16:39PM 8 A. I was a captain in the United States Marine Corps.

4:16:41PM 9 Q. Is that what you did right out of high school, the
10 Marines?

4:16:45PM11 A. No, after I graduated college I went through officer
12 candidate school and became an infantry officer in the
13 Marines.

4:16:52PM14 Q. So after the Marines did you then go right to the FBI?

4:16:54PM15 A. I did.

4:16:55PM16 Q. And what was your first job with the FBI?

4:16:58PM17 A. I was assigned to the Providence, Rhode Island office, I
18 was there for nine years.

4:17:02PM19 Q. Were you a special agent there?

4:17:03PM20 A. I was.

4:17:04PM21 Q. What type of cases did you investigate and --

4:17:06PM22 A. I worked primarily criminal investigations. I was -- also
23 spent 100 days in Baghdad, Iraq, in a terrorism matter, and I
24 was also involved in the 9/11 investigation.

4:17:19PM25 Q. And how many years were you in Rhode Island?

KEON GORDON - DIRECT EXAMINATION

4:17:22PM 1 A. Nine years, sir.

4:17:23PM 2 Q. What did you do after you worked in Rhode Island?

4:17:25PM 3 A. I went to FBI headquarters, I was promoted to a
4 supervisory special agent position, and I supervised the west
5 region of the United States in the public corruption cases.

4:17:37PM 6 Q. How many people would you have supervised in that
7 position?

4:17:41PM 8 A. Directly, just one or two. It was more of a program
9 oversight.

4:17:46PM10 Q. How long did you have that position?

4:17:49PM11 A. Two years.

4:17:49PM12 Q. What did you do after that?

4:17:51PM13 A. I came here and took over the Charleston office of the
14 FBI.

4:17:54PM15 Q. And can you explain to the jury sort of how the resident
16 agency works in the State of South Carolina with the FBI?

4:18:02PM17 A. Yes. So one of the FBI's priorities is supporting our law
18 enforcement partners. We do that through investigations, we
19 do that through the examinations, support of evidence, we do
20 that through training. So what you see is federal criminal
21 law and state and local criminal law overlap many times. And
22 many times the best way to investigate cases is to do it
23 jointly. So we have task force in our office, we have a task
24 force, joint terrorism task force, many of the case
25 investigations we do, we do with our law enforcement partners.

KEON GORDON - DIRECT EXAMINATION

4:18:36PM 1 Q. Can you explain sort of how the FBI is set up in South
2 Carolina. Is there an office just in Charleston, or other
3 part of the state?

4:18:44PM 4 A. The headquarters for South Carolina is in Columbia, seven
5 satellite offices, the two biggest being in Charleston and
6 Greenville.

4:18:51PM 7 Q. And as a supervisor, what are you in charge of in
8 Charleston?

4:18:59PM 9 A. I'm in charge of the administrative of the Charleston
10 office, and I'm also in charge of all criminal investigations,
11 and actually also oversee -- we have a small office in Hilton
12 Head with three agents. I oversee the investigations there as
13 well.

4:19:06PM14 Q. And how many agents do you directly supervise at this
15 point in time?

4:19:10PM16 A. I believe it's 15.

4:19:12PM17 Q. And was that your -- were you doing the same thing back in
18 June of last year?

4:19:16PM19 A. I was. That's correct.

4:19:17PM20 Q. So you talked a little bit about one of the priorities of
21 the FBI being supporting other agencies. Can you explain how
22 that overlap works in real time in terms of relationships with
23 those agencies?

4:19:31PM24 A. Sure. So, you know, we're working with those agencies on
25 a regular basis, a lot of that liaison and building those

KEON GORDON - DIRECT EXAMINATION

1 cases, we do a lot of training with them. One example of
2 training that we've done with local agencies in 2013, we
3 hosted a -- an active -- an active shooter and mass killing
4 exercise and table top. Involved over 50 law enforcement
5 executives, first responders, involved the hospitals here in
6 Charleston, and we went through all the things that the FBI
7 can add to those investigations. We went through scenarios,
8 planning if things happen. So we do a lot of crisis
9 management as well as our investigations with the local and
10 state authorities.

4:20:19PM11 Q. And just in general, on any type of case what type of
12 resources does the FBI offer local agencies?

4:20:25PM13 A. Sure. We -- we offer investigative assistance, we offer
14 laboratory assistance, behavior analysis, tactical assistance
15 in terms of our SWAT teams, our bomb techs. We have a victim
16 assistance program and a victim assistance deployment program,
17 where if there's a tragedy such as this anywhere in the
18 country, we'll deploy our victim specialist to help with --
19 work with the victims, and all the logistics that go with
20 that.

4:21:00PM21 Q. How would you describe your relationship with other
22 federal agencies as well as local agencies, specifically the
23 Charleston city police department?

4:21:09PM24 A. Strong. Very strong. I've had a long working
25 relationship with Chief Mullen, with SLED, with North

KEON GORDON - DIRECT EXAMINATION

1 Charleston, all the agencies here. We spent a lot of time
2 together, there's been a lot of investigations that we've done
3 jointly. So I had been here for over five years, in June,
4 almost five years in June of 2015, so we had a strong working
5 relationship with the command staff.

4:21:34PM 6 Q. And you talked a little bit earlier about mass killing and
7 active shooter scenarios. What do those terms mean to the
8 FBI?

4:21:43PM 9 A. Yeah. So an active shooter is essentially an individual
10 trying to kill other individuals in a publicly-populated area.
11 And then mass killing by a federal statute actually is defined
12 as a killing of three or more individuals in an area that's
13 available to public use.

4:22:05PM14 Q. And so what is the FBI's role in either a mass killing or
15 an active shooting scenario if, as in this case, the locals
16 are already sort of working on the case.

4:22:15PM17 A. Yes. So in 2012 Congress passed the Victim Assistance for
18 Violent Crime Act. And what that did is further defined the
19 FBI's also role in a mass killing or active shooter scenario.

4:22:29PM20 And what it says is the FBI, at the request of local law
21 enforcement, can provide assistance. And that includes all
22 the things I talked about before, investigative assistance,
23 helping set up a command post, the victim teams, the tactical
24 teams, the evidence response, whatever we can do in a
25 situation like that, that takes up such a massive amount of

KEON GORDON - DIRECT EXAMINATION

1 investigation or manpower. And in addition to that, sometimes
2 those incidents will have a federal nexus. So it happens on
3 federal property, it has a terrorism nexus, it has a civil
4 rights nexus.

4:23:03PM 5 Q. So you may also not just be able to assist the locals,
6 maybe they assist you if there's federal violations?

4:23:09PM 7 A. Absolutely. It's a joint effort, a team effort.

4:23:12PM 8 Q. And you mentioned also that there was particular training
9 sort of with mass casualties or crisis management. What is
10 the general approach to a mass casualty or a sort of crisis
11 situation?

4:23:25PM12 A. Yeah, so the idea with that is that we come in and we
13 assist those agencies as they build the command. Now, if
14 there's a federal nexus or federal law is violated as well,
15 there will probably be more of a joint command post, we're
16 running it together.

4:23:39PM17 And in building up with that there's a lot of training
18 that we try to do, active shooter training, crisis management
19 training. Ideally we plan for these things and they never
20 happen. You know, in 2013 when we had a table top exercise,
21 we certainly didn't think that that was going to happen here
22 in Charleston. But -- and by the way, the Charleston police
23 department brought their whole command staff to that, every
24 lieutenant and above was there, whether active participants,
25 and that certainly came together when we were in a crisis

KEON GORDON - DIRECT EXAMINATION

1 situation working together.

4:24:11PM 2 MR. BRUCK: If Your Honor please, may I approach?

4:24:26PM 3 THE COURT: You may.

4:24:22PM 4 (Following discussion held at side bar.)

4:24:24PM 5 THE COURT: Yes, sir.

4:24:24PM 6 MR. BRUCK: I'm going to interpose a relevance
7 objection.

4:24:28PM 8 THE COURT: What is the relevance?

4:24:29PM 9 MR. BRUCK: Mr. Womble is a wonderful guy, but what's
10 this about?

4:24:33PM11 MR. WILLIAMS: He's going to talk about the resources
12 that were allocated to the investigation.

4:24:37PM13 THE COURT: I'm not sure I get that. I mean, just
14 put the evidence up. What's the evidence? I mean, I fussed
15 with Mr. Bruck about talking about the evidence. I just don't
16 know why -- in some ways what you're doing is you're trying to
17 bolster him, and I just don't think you need to do that.

4:24:53PM18 MR. WILLIAMS: I will move along to how they set up
19 the command post and assigned the --

4:24:56PM20 THE COURT: Why is even the command post relevant?

4:24:59PM21 MR. WILLIAMS: Because it has to go to how the
22 defendant was apprehended, how the defendant was caught.
23 Leads came in, they worked the leads, then they arrested him.
24 The bomb threat.

4:25:10PM25 MR. BRUCK: That, too, why don't they go to how he

KEON GORDON - DIRECT EXAMINATION

1 was arrested?

4:25:15PM 2 THE COURT: Why don't you just go to how he was
3 apprehended.

4:25:17PM 4 MR. WILLIAMS: I can do that. Yeah.

4:25:19PM 5 MR. BRUCK: This isn't --

4:25:22PM 6 MR. WILLIAMS: He can say what --

4:25:24PM 7 MR. BRUCK: Okay.

4:25:25PM 8 THE COURT: We okay on that?

4:25:26PM 9 MR. BRUCK: Yes. And I have a little bit of cross,
10 but this is dangling about the bomb threat.

4:25:30PM11 MR. WILLIAMS: Do you want me to cover that?

4:25:32PM12 MR. BRUCK: You can do that. Yeah, sure, why not.

4:25:36PM13 THE COURT: It's been raised; Mr. Bruck's proper to
14 do it.

4:25:40PM15 (Side bar discussion concluded.)

4:25:51PM16 THE COURT: There's a motion of relevance.

17 Sustained.

4:25:53PM18 BY MR. WILLIAMS:

4:25:57PM19 Q. Agent Womble, I want to get to the specific activity in
20 this case and I want to ask you specifically about was there a
21 bomb threat that was called in to the church?

4:26:05PM22 A. There was.

4:26:06PM23 Q. And was that something you were involved with
24 investigating?

4:26:09PM25 A. It was something the FBI was involved in investigating.

KEON GORDON - DIRECT EXAMINATION

1 An outside -- when we were outside divisions, that subject was
2 actually somebody who was already under investigation and
3 by -- when the phone call came in, we were able to trace it to
4 that subject, and he was later arrested for a bomb threat. It
5 didn't deal directly with -- that individual had seen what was
6 going on in the news, and had called in the bomb threat
7 relating to it watching there.

4:26:37PM 8 Q. So it was not anything related to this defendant?

4:26:40PM 9 A. It was not related at all to this defendant.

4:26:42PM10 Q. And there was earlier testimony about a BOLO, a picture
11 that was released. Were you involved in disseminating that?

4:26:50PM12 A. Yes, I was.

4:26:51PM13 Q. And were you involved with coordinating leads overnight
14 with other agencies?

4:26:56PM15 A. Yes, I was.

4:26:57PM16 Q. And was there eventually an arrest made the next morning
17 in Shelby?

4:27:01PM18 A. Yes, that's correct.

4:27:02PM19 Q. And in terms of your role then, you would have been the
20 local supervisor from the time the events occurred, until the
21 arrest in Shelby the next morning?

4:27:12PM22 A. That's correct.

4:27:14PM23 MR. WILLIAMS: No further questions, Your Honor.

4:27:15PM24 THE COURT: Very good. Cross-examination.

4:27:17PM25 MR. BRUCK: No questions, thank you.

DANIEL BERNAT – DIRECT EXAMINATION

THE COURT: Very good. Thank you. Good to have you here. Call your next witness.

MR. WILLIAMS: Thank you, Government calls Dan Bernat.

THE CLERK: State your full name for the record.

A. Daniel Ryan Bernat.

DANIEL BERNAT, a witness called by the Government, first having been duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WILLIAMS:

Q. Sir, can you tell the jurors where you work?

A. Police officer with the Shelby police department in
Shelby, North Carolina.

Q. Where is Shelby, North Carolina?

A. Between Asheville and Charlotte.

Q. How far outside Charlotte is it?

A. An hour. Hour west of Charlotte

Q. What do you do with the Shelby po

A. Currently assigned to the problem solving unit.

O. Say that again.

A. I'm assigned to the problem solving unit.

9. How long have you worked with the Shelby

department?

A. Over six and a half years.

Q. What did you do before you worked with the police

DANIEL BERNAT - DIRECT EXAMINATION

1 department?

4:28:49PM 2 A. I was an automotive technician.

4:28:51PM 3 Q. And when you started with the Shelby police department,
4 six and a half years ago, what was your first sort of type of
5 work?

4:28:58PM 6 A. I was assigned to night shift patrols.

4:29:01PM 7 Q. And you have worked patrol, and then what you called the
8 problem solving unit since then?

4:29:05PM 9 A. That's correct.

4:29:07PM10 Q. I want to ask you about June 18th about 10:30 in the
11 morning. Do you recall being involved in a traffic stop at
12 that time?

4:29:15PM13 A. Yes, I do.

4:29:16PM14 Q. And if you can, tell the jury, had you -- were you aware
15 of or had you heard of anything about a shooting in Charleston
16 that had occurred the night before?

4:29:24PM17 A. Yes, I was.

4:29:25PM18 Q. What had you heard and -- What had you heard?

4:29:27PM19 A. Just that there was an involvement in a church shooting,
20 an individual was not apprehended at this time.

4:29:34PM21 Q. How did you hear about it?

4:29:38PM22 A. On the news.

4:29:40PM23 Q. Did you have any kind of debriefing or anything in your
24 department about the case?

4:29:44PM25 A. No. I did not.

DANIEL BERNAT - DIRECT EXAMINATION

4:29:46PM 1 Q. So tell the jury what you were doing that morning of
2 June 18th. What -- leading up to that traffic stop.

4:29:55PM 3 A. It was actually in a patrol car, fuel pumps, my partner
4 and I, when we received a call from dispatch.

4:30:03PM 5 Q. What was the call that came in?

4:30:05PM 6 A. That there was a possible citing of Mr. Roof traveling
7 westbound on U.S. 74, coming into the Shelby city limits.

4:30:14PM 8 Q. Where were you at the time as you were gassing up your
9 car, relative to that location?

4:30:20PM10 A. It's approximately three and a half, maybe four miles.

4:30:24PM11 Q. So what did you do?

4:30:26PM12 A. Officer Buriss and I, I was operating the patrol vehicle
13 on that date, left to travel to U.S. 74.

4:30:34PM14 Q. Did you obtain any additional information as you drove in
15 that direction?

4:30:39PM16 A. Yes, that he was passing a dealership known as Carter
17 Chevrolet on U.S. 74 coming into Shelby.

4:30:45PM18 Q. And where was that information coming from?

4:30:48PM19 A. Shelby police department dispatch.

4:30:50PM20 Q. Do you know if there was any callers beyond that?

4:30:53PM21 A. Yes, there was a female caller on line with our department
22 at that time.

4:30:59PM23 Q. And so that individual had called, and they were
24 dispatching you, or at least several officers?

4:31:04PM25 A. That's correct.

DANIEL BERNAT - DIRECT EXAMINATION

4:31:06PM 1 Q. So explain to the jury what happened as you were
2 dispatched to that area.

4:31:10PM 3 A. I arrived at the location at U.S. 74, I merged my patrol
4 vehicle on the slow lane shoulder on the highway.

4:31:21PM 5 Q. Were there other officers responding as well?

4:31:23PM 6 A. Yes, there were.

4:31:24PM 7 Q. Who were they?

4:31:25PM 8 A. Officer Scott Hamrick and Officer McDaniel, which was our
9 traffic officer.

4:31:30PM10 Q. And so when you pulled into that intersection, what was
11 the sort of the situation as far as the vehicle you were
12 looking for? What happened?

4:31:41PM13 A. Recognized the vehicle, black in color four-door sedan.
14 At this time I had received or retrieved a phone from my
15 pocket, attempted to locate a picture of the individual known
16 as Mr. Roof.

4:31:52PM17 Q. So you were using your personal phone.

4:31:54PM18 A. Yes, sir.

4:31:54PM19 Q. And that was to make some kind of identification?

4:31:57PM20 A. Yes, sir.

4:31:58PM21 Q. Did you -- were you able to find anything?

4:32:01PM22 A. I was not.

4:32:02PM23 Q. What happened next?

4:32:03PM24 A. My partner, Officer Buriss, advised me that a black in
25 color vehicle had just passed with a South Carolina

DANIEL BERNAT - DIRECT EXAMINATION

1 registration plate.

4:32:12PM 2 Q. And what did you then do?

4:32:14PM 3 A. The vehicle passed, it was in the fast lane, the left
4 lane. I merged my patrol vehicle on to U.S. 74 behind the
5 vehicle.

4:32:22PM 6 Q. And does -- your vehicle had a dash cam?

4:32:24PM 7 A. It did not.

4:32:25PM 8 Q. Were there other officers who had dash cams at the time?

4:32:28PM 9 A. Yes, there was.

4:32:29PM10 Q. Have you reviewed their videos?

4:32:30PM11 A. I did.

4:32:31PM12 Q. Do they depict your vehicle and what you did?

4:32:34PM13 A. Yes.

4:32:35PM14 Q. I'm going to show you Government's exhibit, proposed
15 exhibit 105. Do you recognize that?

4:32:44PM16 A. Yes, I do.

4:32:45PM17 Q. And it has your signature on it?

4:32:47PM18 A. It does.

4:32:48PM19 Q. Have you reviewed it to see if it accurately depicts what
20 happened that day from another officer's patrol car?

4:32:55PM21 A. I have.

4:32:56PM22 Q. Before I play that, I want to ask --

4:32:59PM23 THE COURT: Are you offering it into evidence?

4:33:01PM24 MR. WILLIAMS: Yes, I'll show it to defense counsel.

25 I'll move to admit, I won't publish it quite yet. That's 105.

DANIEL BERNAT - DIRECT EXAMINATION

4:33:10PM 1 THE COURT: Do we have an objection?

4:33:11PM 2 MS. STEVENS: No objection, Your Honor.

4:33:12PM 3 THE COURT: Government 105 is admitted without
4 objection.

4:33:14PM 5 (Government Exhibit 105 received.)

4:33:14PM 6 BY MR. WILLIAMS:

4:33:16PM 7 Q. So before we watch that video, tell the jury what
8 happened.

4:33:22PM 9 A. I merged my patrol vehicle onto U.S. 74. The black in
10 color vehicle immediately merged into the slow lane of travel.
11 Traffic was heavy on that day. It took me approximately 30
12 seconds to work my way through traffic behind the vehicle.

4:33:37PM13 Q. Were you the first car behind the vehicle?

4:33:39PM14 A. Yes, I was.

4:33:40PM15 Q. And so explain to me, had any kind of plate been run or
16 did you have any information about who might be driving the
17 vehicle?

4:33:49PM18 A. Repeat the question.

4:33:50PM19 Q. Had the plate been run so you might be able to make
20 identification of -- you said you looked on your phone; did
21 you try to determine anything else about the driver?

4:33:58PM22 A. Not that I recall. However, when I was behind the
23 vehicle, I did call in the registration plate to our dispatch.

4:34:04PM24 Q. Was there anything about the vehicle otherwise, apart from
25 the call that came in, that made you think it might be the

DANIEL BERNAT - DIRECT EXAMINATION

1 person involved in the Charleston shootings?

4:34:12PM 2 A. Not that I recall.

4:34:13PM 3 Q. So when you pulled over the vehicle, what was your
4 approach or what were you going to do when you pulled the car
5 over?

4:34:19PM 6 A. Conduct a traffic stop.

4:34:23PM 7 Q. A normal traffic stop, anything different than how you
8 would normally stop someone for a traffic infraction?

4:34:28PM 9 A. At that time Mr. Roof had -- the vehicle had got behind a
10 tractor trailer and traveled within a close proximity of that
11 tractor trailer. We was almost out of our jurisdiction at
12 that time. I did activate my blue lights and siren. There
13 was a convenience store which is our last point before we
14 ended our jurisdiction. As I initiated my blue lights and
15 siren, he pulled into the driveway of a residence.

4:35:00PM16 Q. And the car pulled over, it didn't -- pulled over quickly
17 once you put on your blue lights?

4:35:05PM18 A. Yes, he immediately turned on his right turn signal and
19 pulled right into the driveway.

4:35:11PM20 Q. You've heard of the term felony traffic stop.

4:35:13PM21 A. Yes, sir.

4:35:14PM22 Q. Did you conduct a felony traffic stop in this case or just
23 a normal traffic stop?

4:35:18PM24 A. It was a normal traffic stop.

4:35:19PM25 Q. At that point did you know who the driver actually was?

DANIEL BERNAT - DIRECT EXAMINATION

4:35:23PM 1 A. I did not.

4:35:24PM 2 Q. So explain to the jury what happened when you conducted
3 the traffic stop.

4:35:28PM 4 A. At the time I actually exited my patrol vehicle, my
5 partner, Officer Buriss, exited the passenger side of my
6 patrol vehicle. Officer Hamrick and Sergeant Myers had also
7 arrived at the same time I conducted the traffic stop. I
8 approached the left rear corner of the vehicle.

4:35:46PM 9 Q. What is the normal approach when you have at least two
10 officers going up to a car, what is -- how do you coordinate
11 your traffic stop and how did you do it in this case?

4:35:56PM12 A. It's officer discretion, but I chose to make contact on
13 the driver's side of the vehicle on this day.

4:36:01PM14 Q. And what did Officer Buriss do?

4:36:03PM15 A. He approached the passenger's side of the vehicle.

4:36:06PM16 Q. And tell the jury what happened.

4:36:09PM17 A. I ordered the driver to place his hands on the steering
18 wheel and keep them there, which he complied.

4:36:15PM19 Q. Were you able to get a look at him at that time?

4:36:18PM20 A. Not at this moment, no.

4:36:19PM21 Q. Did he have anything on his lap or in his car with him?

4:36:22PM22 A. When I approached I did observe a GPS sitting on
23 Mr. Roof's lap.

4:36:28PM24 Q. And so you walk up to the car, you observe the GPS, he
25 puts his hands on the steering wheel, what happens then?

DANIEL BERNAT - DIRECT EXAMINATION

4:36:34PM 1 A. I asked him to turn the vehicle off with his right hand.

4:36:37PM 2 Q. Did that happen?

4:36:39PM 3 A. Yes, it did.

4:36:40PM 4 Q. What happened next?

4:36:41PM 5 A. I asked him to slowly step out of the vehicle.

4:36:44PM 6 Q. Did you ask him who he was at that point?

4:36:46PM 7 A. When he stepped out of the vehicle I asked him his name.

4:36:49PM 8 Q. So he steps out, and what did you ask him?

4:36:52PM 9 A. Sir, what is your name?

4:36:53PM10 Q. What did he say?

4:36:54PM11 A. Dylann Roof.

4:36:55PM12 Q. Did you recognize at that point who he was?

4:36:57PM13 A. Yes.

4:36:58PM14 Q. What did you do?

4:37:00PM15 A. I then frisked his person, which is open-hand pat down of
16 his person.

4:37:06PM17 Q. Why do you do that?

4:37:07PM18 A. For any weapons.

4:37:09PM19 Q. Did you find anything?

4:37:10PM20 A. I did not.

4:37:11PM21 Q. Once you had done the initial pat down, what happened?

4:37:14PM22 A. I then placed him in handcuffs, advised he was not under
23 arrest, but merely detained.

4:37:20PM24 Q. Why did you do that?

4:37:21PM25 A. For further investigation. And officer safety.

DANIEL BERNAT - DIRECT EXAMINATION

4:37:24PM 1 Q. Had you confirmed yet that that was -- that Dylann Roof
2 was, in fact, the person that was wanted for the shooting in
3 Charleston?

4:37:31PM 4 A. Not at that moment.

4:37:32PM 5 Q. So what did you do once you had him sort of handcuffed and
6 detained?

4:37:39PM 7 A. Supervisor on scene was Sergeant Myers on that date. And
8 he had advised me that that's him. He identified him.

4:37:49PM 9 Q. Did -- say that again. So was he moved somewhere? I'm
10 not sure I understand that.

4:37:55PM11 A. No, Sergeant Myers had arrived, and once he observed
12 Mr. Roof, he gave me an identification that that was him.

4:38:02PM13 Q. Okay. So Sergeant Myers told you that?

4:38:04PM14 A. Yes.

4:38:04PM15 Q. So what did Sergeant Myers say?

4:38:06PM16 A. Just that that's him, that's Mr. Roof.

4:38:09PM17 Q. Okay. Where was Sergeant Myers at that point in time when
18 you had the defendant out of the car and towards the back or
19 at the driver's side?

4:38:17PM20 A. He was on the right rear side of the vehicle.

4:38:19PM21 Q. So what happened at this point in time?

4:38:22PM22 A. I then released Mr. Roof to Officer Hamrick.

4:38:26PM23 Q. And was he at the back of the vehicle?

4:38:29PM24 A. Yes.

4:38:29PM25 Q. Were you able to hear or see what they were doing?

DANIEL BERNAT - DIRECT EXAMINATION

4:38:32PM 1 A. No, I was not.

4:38:34PM 2 Q. What was the next thing that you did in the case? I'm
3 sorry, the traffic stop.

4:38:40PM 4 A. After he was released to Officer Hamrick, I then opened
5 the trunk of the vehicle to make sure no individual was
6 inside.

4:38:50PM 7 Q. Was there anything in the trunk area of the car?

4:38:52PM 8 A. No, there was not.

4:38:54PM 9 Q. And I don't mean by anything, was there items apart from
10 people, just normal items back there?

4:39:00PM11 A. There were items, no individuals.

4:39:02PM12 Q. What was the next thing you did after you cleared the
13 trunk area?

4:39:06PM14 A. Advised by Officer Buriss that a weapon may be inside the
15 vehicle.

4:39:09PM16 Q. Say that again.

4:39:09PM17 A. I was advised by Officer Buriss that a weapon may be
18 inside the vehicle.

4:39:13PM19 Q. Were you told where it might be?

4:39:15PM20 A. No, I was not.

4:39:16PM21 Q. What did you do after you heard that?

4:39:18PM22 A. Officer Ledford opened the right rear door of the vehicle.
23 Once the door was opened, we observed a white in color pillow
24 seated on the seat.

4:39:26PM25 Q. What happened then?

DANIEL BERNAT - DIRECT EXAMINATION

4:39:28PM 1 A. Officer Ledford raised the pillow, and I observed a black
2 in color handgun which appeared to be a Glock semiautomatic
3 handgun.

4:39:36PM 4 Q. Are you familiar with handguns?

4:39:38PM 5 A. Yes.

4:39:38PM 6 Q. You know what a semiautomatic is?

4:39:40PM 7 A. Yes.

4:39:41PM 8 Q. Can you tell the caliber of it?

4:39:43PM 9 A. No, I could not.

4:39:45PM10 Q. Once you saw the gun underneath that pillow, did anybody
11 seize it or do anything with it?

4:39:51PM12 A. The pillow was placed back on top of the weapon and the
13 door was shut, the vehicle was secured.

4:39:57PM14 Q. And once -- did you tell your supervisor that you had seen
15 the gun in the back seat?

4:40:02PM16 A. Yes.

4:40:03PM17 Q. What was the next role you had at that point?

4:40:06PM18 A. At that time I placed crime scene tape around the vehicle
19 and secured the crime scene at that time.

4:40:12PM20 Q. And you say that you have reviewed Exhibit 105. Can you
21 tell the jury basically what the perspective is or whose car
22 it is?

4:40:21PM23 A. Same. I don't recall which in car video --

4:40:25PM24 Q. And it shows your actions?

4:40:27PM25 A. Yes.

DANIEL BERNAT - DIRECT EXAMINATION

4:40:28PM 1 MR. WILLIAMS: Your Honor, I'm going to play
2 Government's Exhibit 105.

4:40:33PM 3 MS. STEVENS: No objection.

4:40:34PM 4 THE COURT: Very good.

4:40:41PM 5 (Video played.)

4:40:42PM 6 BY MR. WILLIAMS:

4:41:03PM 7 Q. I'm going pause it there. Is that your patrol vehicle
8 that's in the front?

4:41:06PM 9 A. No, it is not.

4:41:07PM10 Q. You're further down the road?

4:41:08PM11 A. Yes.

4:41:09PM12 Q. Okay.

4:41:12PM13 (Video played.)

4:42:05PM14 Q. So who are the individuals that we see approaching the
15 vehicle?

4:42:08PM16 A. I'm on the left and in the gray shirt. Officer Hamrick is
17 on the right side.

4:42:14PM18 Q. Who is the one in the gray shirt?

4:42:15PM19 A. That's me.

4:42:16PM20 Q. And so Officer Hamrick is the one to the right?

4:42:19PM21 A. Yes.

4:42:24PM22 MR. WILLIAMS: Go ahead.

4:42:25PM23 (Video played.)

4:43:37PM24 Q. So who are the individuals now that are depicted in that?

4:43:43PM25 A. My contact was Mr. Roof, so that's me. Directly behind

DANIEL BERNAT - DIRECT EXAMINATION

1 him would be Officer Hamrick. Officer Scott Ledford is in
2 gray shirt behind him, then Sergeant Myers is on the right
3 rear of the vehicle.

4:43:56PM 4 MR. WILLIAMS: All right. I'll start again.

4:44:03PM 5 (Video played.)

4:44:42PM 6 Q. And is that when the defendant was then taken to another
7 location?

4:44:47PM 8 A. Repeat the question?

4:44:48PM 9 Q. Was he taken to another vehicle at that point in time?

4:44:51PM10 A. Yes, Officer Hamrick's vehicle.

4:44:53PM11 Q. And who transported him that day, if you recall?

4:44:57PM12 A. Officer Hamrick.

4:44:59PM13 Q. Did he transported almost immediately after he was taken
14 from his vehicle?

4:45:03PM15 A. Yes.

4:45:17PM16 MR. WILLIAMS: No further questions. Thank you,
17 Officer Bernat.

4:45:20PM18 THE COURT: Cross-examination.

4:45:21PM19 MS. STEVENS: Thank you.

CROSS-EXAMINATION

4:45:28PM21 BY MS. STEVENS:

4:45:28PM22 Q. Officer Bernat. Is it Officer Bernat?

4:45:33PM23 A. Correct.

4:45:33PM24 Q. I want to get your title right. So on June 18th at about
25 10:33 in the morning, you first heard the radio call saying

DANIEL BERNAT - CROSS-EXAMINATION

1 that perhaps Dylann Roof, or the suspect in the Charleston
2 shooting, was headed westbound on I-74, correct?

4:45:50PM 3 A. Possible citing, yes, that's correct.

4:45:52PM 4 Q. And you fell in behind him pretty quickly, didn't you?

4:45:57PM 5 A. Approximately 30 minutes after the call was given, just an
6 estimation.

4:46:01PM 7 Q. You pulled him over actually -- you had described the
8 Kangaroo gas station on the corner being the end of your
9 jurisdiction, correct?

4:46:09PM10 A. That's correct.

4:46:09PM11 Q. And you were able to get him pulled over just shy of that
12 line?

4:46:13PM13 A. That's correct.

4:46:14PM14 Q. And you said he pulled over within ten yards or so,
15 correct, when you turned on your blue light, he pulled over in
16 a very short distance?

4:46:23PM17 A. I didn't testify to ten yards, but as soon as I activated
18 my blue light and siren, I testified he immediately pulled
19 over.

4:46:30PM20 Q. And put on his right turn signal and pulled off fairly
21 quickly.

4:46:33PM22 A. That's correct.

4:46:35PM23 Q. Now, when you got out of your car, given that you were
24 perhaps pulling over the suspect in the Charleston shooting,
25 you drew your weapon, correct?

DANIEL BERNAT - CROSS-EXAMINATION

4:46:44PM 1 A. I did remove my duty weapon from the holster, that's
2 correct.

4:46:48PM 3 Q. And we saw in the video that you approach the car
4 initially with your weapon drawn, correct?

4:46:54PM 5 A. That's correct.

4:46:55PM 6 Q. And your partner, Officer Buriss, is it?

4:46:59PM 7 A. That's correct.

4:47:00PM 8 Q. Was he behind you as you first approached the car?

4:47:03PM 9 A. He was on the right side of Mr. Roof's vehicle.

4:47:06PM10 Q. And who was it that you described the officer immediately
11 to your right that approached the right passenger side of the
12 car?

4:47:13PM13 A. Officer Hamrick.

4:47:17PM14 Q. And the car was an older Hyundai vehicle?

4:47:21PM15 A. That's correct.

4:47:22PM16 Q. You were able to run the tags and determine that it was,
17 in fact, the car you were looking for?

4:47:29PM18 A. That's incorrect. The tag already went to dispatch,
19 dispatch had advised me that it was a different vehicle, not a
20 Hyundai.

4:47:37PM21 Q. But eventually you determined that you actually had the
22 proper car, right?

4:47:43PM23 A. Had no information other than what I had, other than a
24 possible sighting of Mr. Roof. I mean, I conducted a vehicle
25 stop for him following too close to a tractor trailer. It was

DANIEL BERNAT - CROSS-EXAMINATION

1 my contact with him that then advised me of proof that it was
2 then, in fact, Mr. Roof.

4:48:00PM 3 Q. And then as we saw in Government's Exhibit 105, you
4 approached initially with your weapon drawn, right?

4:48:07PM 5 A. My weapon was removed from the duty holster, that's
6 correct.

4:48:10PM 7 Q. And you had it in your hand?

4:48:12PM 8 A. That's correct.

4:48:13PM 9 Q. And then you got close to the driver's door of the car,
10 right?

4:48:16PM11 A. That's correct.

4:48:17PM12 Q. And you looked into the window of the driver's door of the
13 car, correct?

4:48:24PM14 A. That's correct.

4:48:24PM15 Q. And you put your weapon away, as we saw?

4:48:27PM16 A. That's correct.

4:48:29PM17 Q. And you ordered Dylann Roof to put his hands on the
18 steering wheel, didn't you?

4:48:34PM19 A. My approach to Mr. Roof, that's correct.

4:48:36PM20 Q. And I imagine you ordered that pretty loudly?

4:48:39PM21 A. That's correct.

4:48:40PM22 Q. And he immediately put his hands at the ten and two
23 position on the steering wheel?

4:48:45PM24 A. That's correct.

4:48:46PM25 Q. And did he keep them there in your sight as you came up

DANIEL BERNAT - CROSS-EXAMINATION

1 toward the window of the car with his hands on the wheel?

4:48:51PM 2 A. Yes, he did.

4:48:52PM 3 Q. And then you ordered him to take his right hand and turn
4 the car off?

4:48:56PM 5 A. Yes, I did.

4:48:57PM 6 Q. And he complied with that order?

4:48:59PM 7 A. Correct.

4:49:00PM 8 Q. And was it at that point that you had him get out of the
9 car?

4:49:04PM10 A. That's correct.

4:49:05PM11 Q. And did you notice at that point the other officers, too,
12 had their weapons put back away, didn't they?

4:49:11PM13 A. No, I could not see what the other officers were doing, I
14 was focused on Mr. Roof.

4:49:16PM15 Q. All right. So you were focused on Dylann Roof personally
16 at that time?

4:49:20PM17 A. That's correct.

4:49:21PM18 Q. Now, when he stepped out of the car did you speak with
19 him?

4:49:24PM20 A. Yes, I did.

4:49:25PM21 Q. And you asked him, what is your name, right?

4:49:28PM22 A. That's correct.

4:49:28PM23 Q. And he said to you, Dylann Roof.

4:49:30PM24 A. That's correct.

4:49:33PM25 Q. Did he speak quietly or loudly in that moment, having just

DANIEL BERNAT - CROSS-EXAMINATION

1 been pulled over?

4:49:37PM 2 A. He was humble, he was quiet.

4:49:39PM 3 Q. He was quiet?

4:49:40PM 4 A. Yes.

4:49:42PM 5 Q. And you asked him, I believe, at some point in this
6 exchange, are you from Charleston?

4:49:50PM 7 A. No, that's incorrect.

4:49:51PM 8 Q. Another officer asked him that?

4:49:53PM 9 A. I can't testify to what other officers asked.

4:49:56PM10 Q. You established with him that his name was Dylann Roof.

4:49:59PM11 A. That's correct.

4:50:01PM12 Q. And was it then that you placed him in cuffs?

4:50:04PM13 A. After a frisk of his person was completed, that's correct.

4:50:07PM14 Q. And what did you find on the frisk of his person then?

4:50:11PM15 A. Nothing.

4:50:13PM16 Q. How do you conduct a frisk of the person, what do you do?

4:50:16PM17 A. An open-handed pat down.

4:50:18PM18 Q. Of what areas?

4:50:20PM19 A. His entire body area.

4:50:27PM20 Q. And you said you found nothing?

4:50:29PM21 A. I did not.

4:50:30PM22 Q. And then you described that Officer Hamrick took Dylann
23 Roof back toward the trunk of the car, correct?

4:50:36PM24 A. I released Mr. Roof to Officer Hamrick. I can't testify
25 to what Officer Hamrick did with him other than placing him

DANIEL BERNAT - CROSS-EXAMINATION

1 into his patrol car.

4:50:45PM 2 Q. You didn't hear the next thing that was said between
3 Officer Hamrick and Dylann Roof, right?

4:50:51PM 4 A. I did not.

4:50:52PM 5 Q. But the next thing you heard was there may be a weapon in
6 the car.

4:50:59PM 7 A. From Officer Buriss.

4:51:01PM 8 Q. And your partner, Officer Buriss, told you there may be a
9 weapon in the car, right?

4:51:06PM10 A. It wasn't immediately, it was after we opened the trunk to
11 look for any individual that may be inside the vehicle.

4:51:12PM12 Q. So before then you heard there was the weapon in the back
13 seat of the car, you opened the trunk?

4:51:19PM14 A. Yes, I did.

4:51:21PM15 Q. When you opened the trunk you were looking for a person?

4:51:23PM16 A. That's correct.

4:51:24PM17 Q. And there was nobody in the trunk?

4:51:26PM18 A. There was not.

4:51:27PM19 Q. But when you opened the trunk, what did you see in the
20 trunk?

4:51:30PM21 A. I don't recall.

4:51:32PM22 Q. Personal items?

4:51:33PM23 A. I don't recall.

4:51:35PM24 Q. Was it empty? Was it full?

4:51:37PM25 A. I don't recall.

DANIEL BERNAT - CROSS-EXAMINATION

4:51:40PM 1 Q. After you closed the trunk, that's when you heard there
2 may be a weapon in the passenger area of the car, that is, the
3 passenger compartment of the car?

4:51:49PM 4 A. Officer Buriss advised me there may be a weapon inside the
5 vehicle.

4:51:52PM 6 Q. Okay. And you went to the back passenger seat? The back
7 passenger door?

4:51:57PM 8 A. That's correct.

4:51:58PM 9 Q. You opened up the door?

4:51:59PM10 A. That's correct.

4:52:00PM11 Q. And you saw a white pillow.

4:52:02PM12 A. That's correct.

4:52:03PM13 Q. Like a standard pillow that a person would sleep with on
14 their bed?

4:52:08PM15 A. I don't recall.

4:52:09PM16 Q. Was it little, was it normal sized?

4:52:12PM17 A. I don't recall.

4:52:13PM18 Q. You lifted up the pillow?

4:52:15PM19 A. Officer Ledford lifted the pillow up.

4:52:18PM20 Q. Were you standing there watching?

4:52:19PM21 A. Yes, I was.

4:52:20PM22 Q. Okay. And underneath the pillow was a gun?

4:52:23PM23 A. That's correct.

4:52:24PM24 Q. And did you leave the weapon there, did you leave the gun
25 there or did you pick it up and take it at that time?

DANIEL BERNAT - CROSS-EXAMINATION

4:52:30PM 1 A. The gun was never touched.

4:52:32PM 2 Q. So you just put the pillow back down.

4:52:34PM 3 A. That's correct.

4:52:39PM 4 Q. At that point you said you placed Dylann Roof in Officer
5 Hamrick's custody?

4:52:44PM 6 A. That's not what I testified to. I testified to is that
7 immediately after he was taken out of the vehicle, I detained
8 him, and then he was released to Officer Hamrick.

4:52:53PM 9 Q. Okay. And you said he was not under arrest?

4:52:57PM10 A. That's correct.

4:52:58PM11 Q. He -- but you handcuffed him?

4:53:05PM12 A. That's correct.

4:53:01PM13 Q. Okay. For safety reasons.

4:53:03PM14 A. That's correct.

4:53:03PM15 Q. And then he was sent with Officer Hamrick at that time.

4:53:07PM16 A. That's correct.

4:53:09PM17 Q. Did he appear to you to be intoxicated?

4:53:13PM18 A. My contact with him was very brief. I could not form an
19 opinion that he was under any influence at that time.

4:53:20PM20 Q. Did you smell anything coming off of him?

4:53:22PM21 A. No, I did not.

4:53:23PM22 Q. Was he cooperative with you?

4:53:24PM23 A. Yes, he was.

4:53:26PM24 Q. Did you have further interaction with him at the police
25 station?

DANIEL BERNAT - CROSS-EXAMINATION

4:53:30PM 1 A. I did not.

4:53:31PM 2 Q. So your last contact was you were standing at the trunk of
3 the car when he was pulled away with Officer Hamrick?

4:53:38PM 4 A. That was not my last contact with him. My last contact
5 with him was when we assisted him on the plane.

4:53:44PM 6 Q. Okay. You took him later that day to an airplane?

4:53:48PM 7 A. That's correct.

4:53:48PM 8 Q. And he was flown with the FBI back to South Carolina,
9 correct?

4:53:52PM10 A. That's correct.

4:53:53PM11 Q. And he had voluntarily waived extradition from North
12 Carolina and was flown back that day with the FBI.

4:53:59PM13 MR. WILLIAMS: Object to hearsay, Your Honor.

4:54:01PM14 THE COURT: I'm sorry?

4:54:02PM15 MR. WILLIAMS: Object to hearsay.

4:54:03PM16 THE COURT: If he knows.

4:54:04PM17 BY MS. STEVENS:

4:54:04PM18 Q. If you know, sir, did he waive extradition voluntarily
19 from North Carolina, go with the FBI to be placed on an
20 airplane and brought back to Charleston on June 18th?

4:54:15PM21 A. He did waive extradition.

4:54:17PM22 THE COURT: Overruled.

4:54:22PM23 MS. STEVENS: If I may have a moment, Your Honor.

4:54:23PM24 THE COURT: Yes.

4:54:27PM25 MS. STEVENS: Nothing further, thank you.

MICHAEL MYERS - DIRECT EXAMINATION

4:54:29PM 1 THE COURT: Thank you. Anything else?

4:54:31PM 2 MR. WILLIAMS: No redirect, Your Honor.

4:54:33PM 3 THE COURT: Thank you, Officer. Call your next
4 witness.

4:54:39PM 5 MR. WILLIAMS: Thank you, Your Honor. Government
6 calls Sergeant Hamrick.

4:55:08PM 7 THE CLERK: State your full name for the record,
8 please.

4:55:10PM 9 A. Michael Myers.

DIRECT EXAMINATION

4:55:20PM13 BY MR. WILLIAMS:

4:55:33PM14 Q. Sir, tell the jury where you work.

4:55:36PM15 A. I'm a -- Shelby police department.

4:55:38PM16 Q. What do you do for the Shelby police department?

4:55:41PM17 A. I am a patrol sergeant.

4:55:43PM18 Q. How long have you been a -- how long have you been in law
19 enforcement?

4:55:47PM20 A. Going on 19 years.

4:55:49PM21 || 0. What agencies have you worked for?

4:55:51PM22 A. Just Shelby police department.

4:55:54PM23 || Q. And what is your current rank?

4:55:56PM24 A. I'm a sergeant in a patrol division.

Q. How long have you been a supervisor?

MICHAEL MYERS - DIRECT EXAMINATION

4:56:02PM 1 A. Since 2008.

4:56:03PM 2 Q. And did you work as a patrol officer prior to that?

4:56:07PM 3 A. Yes, sir.

4:56:07PM 4 Q. Were you working on June 18, about 10:30 in the morning,
5 last year?

4:56:12PM 6 A. Yes, sir.

4:56:13PM 7 Q. Do you recall a traffic stop that happened that morning?

4:56:16PM 8 A. Yes, sir.

4:56:19PM 9 Q. That involved an individual named Dylann Roof, the
10 defendant in this case?

4:56:22PM11 A. Yes, sir.

4:56:23PM12 Q. How did you get involved in that traffic stop that
13 morning?

4:56:26PM14 A. I was notified by our communications center, some
15 information that they have received, and they wanted me to
16 look at a call that they were dispatching other officers to be
17 on the look out for a vehicle that was supposed to be coming
18 in from the east side of Shelby traveling west on U.S. 74.

4:56:49PM19 Q. Did you have any awareness of the shooting that had
20 happened in Charleston the night before?

4:56:54PM21 A. Only thing that I had was prior to me coming in or
22 reporting for duty that morning was I did see a -- just a
23 small news clip that morning before I left out to go to work.

4:57:08PM24 Q. Did you have any kind of briefing within your department?

4:57:11PM25 A. I did talk to the higher officers that were working that

MICHAEL MYERS - DIRECT EXAMINATION

1 day, but we didn't have a whole lot of information at that
2 time.

4:57:19PM 3 Q. So it wasn't a case that was on your radar at that point
4 in time at least.

4:57:23PM 5 A. Other than we knew there had been a shooting incident in
6 Charleston in the church.

4:57:28PM 7 Q. So you say you were dispatched or a call went out. Tell
8 the jury what happened.

4:57:33PM 9 A. Our communications center notified two officers that they
10 have received information that there was a vehicle coming into
11 Shelby on U.S. 74. And they wanted them to be in the area to
12 look with -- look for the car. The information that was given
13 to us is that the caller had recognized the vehicle possibly
14 being involved with the church shooting here in Charleston.

4:58:01PM15 Q. And was that a civilian, a person that was driving?

4:58:05PM16 A. There was some of the information was relayed by an
17 officer from Kings Mountain police department, and there was
18 also some information from a female who also had called in to
19 our department.

4:58:19PM20 Q. So you had that call come in; what did you do?

4:58:22PM21 A. I looked at the call, I actually listened where the
22 officers were to determine where U.S. 74 is from the city
23 limits to the end of city limits, a little over eight and a
24 half miles, and I listened to where they were checking in on
25 the location on the road. And I knew that we had cars on the

MICHAEL MYERS - DIRECT EXAMINATION

1 east side of U.S. 74, and we also had cars that were checking
2 en route to the western end of U.S. 74. I happened to be
3 close to the middle, responding to a area which was Hamrick
4 Street and U. S. 74.

4:58:56PM 5 Q. So when the call came in, how far were you or how close
6 were you to the area where you thought the suspect car might
7 show up?

4:59:03PM 8 A. I was within probably two miles of the bypass.

4:59:09PM 9 Q. Did anybody else respond apart from you with your
10 department?

4:59:12PM11 A. Yes, sir.

4:59:13PM12 Q. Who else?

4:59:14PM13 A. There was one -- traffic officers that responded to the
14 east side of 74, his name was Officer McDaniel. Then there
15 was Officer Bernat, and then -- who was paired up with Joe
16 Buriss, at that time responded and stated that they were
17 coming in on the western side of U.S. 74.

4:59:35PM18 Q. And was there an officer with Sergeant Myers involved as
19 well?

4:59:39PM20 A. That's me.

4:59:40PM21 Q. I'm sorry, I got the names mixed up.

4:59:43PM22 THE COURT: I introduce you to your witness.

4:59:44PM23 Q. Was there Officer Hamrick that was involved as well?

4:59:47PM24 A. Yes, sir.

4:59:47PM25 Q. And what -- where did he respond to?

MICHAEL MYERS - DIRECT EXAMINATION

4:59:51PM 1 A. He responded to the 74 bypass area also. But I -- he did
2 not give an actual location of where he was at, at that time.

5:00:01PM 3 Q. So tell me what happened at that point.

5:00:04PM 4 A. When I was at the Hamrick Street and U.S. 74, I then
5 received information that Officer Bernat and Officer Buriss
6 were at Polkville Road and U.S. 74 west. And they said that
7 they were in position.

5:00:24PM 8 Short time later when I was sitting at the traffic light
9 there at that intersection, they notified that they had a
10 vehicle matching the description that the caller had
11 recognized that had passed. And I then was started traveling
12 west on U.S. 74.

5:00:41PM13 Q. What occurred then?

5:00:42PM14 A. Once I was on 74, I traveled down, Officer Bernat called
15 in a registration plate number that was displayed on the rear
16 of the vehicle. And I continued traveling west. Once I
17 passed, there's a shopping center on my right on U.S. 74,
18 continued on, on West Dixon. I was able to work my way and
19 notify Officer Bernat that I was close behind him there on the
20 West Dixon Boulevard, so he knew that he had an additional car
21 there.

5:01:16PM22 Q. And what were the -- how many cars then were following the
23 suspect vehicle?

5:01:20PM24 A. There were several cars around, there was probably
25 approximately six or so, there were several on both lanes, the

MICHAEL MYERS - DIRECT EXAMINATION

1 right- and left-hand lane. As we were traveling up through.
2 And we were actually approaching Plato Lee Road and Beaver
3 Pantry stoplight, when I was still trying to maneuver through
4 the traffic to get up close to Officer Bernat and Joe Buriss.

5:01:43PM 5 Q. How many Shelby police cars were sort of in that line
6 behind the defendant vehicle?

5:01:49PM 7 A. Originally I knew that Officer Bernat was the car directly
8 closest to him, then it would have been my vehicle and then
9 Officer Scott Hamrick's vehicle, and then Officer Scott
10 Ledford's vehicle would have been the fourth vehicle that come
11 up.

5:02:06PM12 Q. So it was Bernat, then you and then Hamrick?

5:02:10PM13 A. Yes.

5:02:12PM14 Q. Did you have a dash cam video?

5:02:14PM15 A. Yes, sir, I did.

5:02:15PM16 Q. And I'm going -- have you reviewed two of the different
17 dash cam videos in this case?

5:02:21PM18 A. Yes, sir.

5:02:21PM19 Q. Do they both accurately reflect what occurred?

5:02:24PM20 A. Yes, sir.

5:02:24PM21 Q. I'm going to show you Government's 106. Is that one that
22 you reviewed?

5:02:31PM23 A. Yes, sir.

5:02:32PM24 Q. And does it accurately reflect one of those two dash cams
25 or patrol car videos?

MICHAEL MYERS - DIRECT EXAMINATION

5:02:40PM 1 A. Yes, sir.

5:02:41PM 2 MR. WILLIAMS: I'm going to show this to defense.

5:02:49PM 3 THE COURT: Any objection?

5:02:50PM 4 MS. STEVENS: No objection, Your Honor.

5:02:51PM 5 THE COURT: Government 106 admitted without

6 objection.

5:02:53PM 7 (Government Exhibit 106 received.)

5:02:53PM 8 BY MR. WILLIAMS:

5:02:54PM 9 Q. Before I play that, tell the jury what your role was in

10 the traffic stop and what occurred.

5:03:01PM11 A. My role at that point, due to the fact that Officer Bernat

12 was immediately behind the vehicle, he was the what we call

13 the primary vehicle to initiate the actual traffic stop. My

14 responsibility at that point is to assist him during the

15 traffic stop procedures. So I was there as a secondary car,

16 then I realized that Officer Hamrick was there, and then there

17 was also another car, which was Scott Ledford. But I was

18 there to assist him with the traffic stop.

5:03:30PM19 Q. And what happened during the traffic stop?

5:03:32PM20 A. Officer Bernat activated his blue lights, at which time I

21 also activated mine. When Officer Bernat activated his blue

22 lights, his vehicle was directly behind the defendant's

23 vehicle. And there was a transfer truck immediately in front

24 of it. And once he activated the blue lights, the defendant's

25 vehicle actually pulled off to the right-hand shoulder of the

MICHAEL MYERS - DIRECT EXAMINATION

1 roadway from the -- across a right turn lane into a gravel
2 driveway.

5:04:06PM 3 Q. What happened then?

5:04:07PM 4 A. Officer Bernat and Officer Buriss exited the vehicle --
5 their vehicle, I also exited my vehicle. Officer Bernat gave
6 commands to the driver of the vehicle to put his hands on the
7 steering wheel.

5:04:25PM 8 Q. Where were you when this was happening?

5:04:26PM 9 A. I was exiting my vehicle approaching the rear of Officer
10 Bernat's and Officer Hamrick's vehicles.

5:04:35PM11 Q. And did you stay towards the back of the --

5:04:37PM12 A. I did, I stayed back just a little ways from actually
13 where they were, kind of observing the whole situation. From
14 a little bit of a distance from them.

5:04:48PM15 Q. And what did you observe happening?

5:04:50PM16 A. As Officer Bernat was approaching the vehicle, Officer
17 Buriss actually approached the vehicle also, and then Officer
18 Hamrick. They originally had their weapons drawn. However,
19 due to the compliance to the driver, he complied immediately
20 to the commands that the officers gave him, putting his hands
21 on the steering wheel. They cautiously approached the
22 vehicle.

5:05:17PM23 And when they got to the rear of the vehicle, Officer
24 Bernat proceeded to the driver's side door and Officer Buriss
25 went to the passenger side front door. And Officer Hamrick

MICHAEL MYERS - DIRECT EXAMINATION

1 stayed at the rear, and I kind of stayed in the area. I had
2 moved up a little distance closer to the vehicle at that time.

5:05:35PM 3 Q. So as Officer Bernat was at the side, what did you see or
4 hear happening?

5:05:40PM 5 A. He actually began talking to the driver, the defendant.
6 And he actually got the driver out of the vehicle.

5:05:50PM 7 Q. What happened then?

5:05:52PM 8 A. When he got the defendant out of the vehicle, he walked --
9 put him up against the side of the vehicle, done a quick pat
10 down of his person, and then moved him to the rear of the car.

5:06:06PM11 Q. And what happened at the rear of the car?

5:06:08PM12 A. When we got to the rear of the car he actually -- Officer
13 Bernat actually turned him over to Officer Hamrick, who was
14 there at the rear of the car. And Officer Hamrick was doing a
15 secondary search of him, and that's where I spoke to Mr. Roof.

5:06:23PM16 Q. So had you identified him or gotten his name at that point
17 in time?

5:06:27PM18 A. No, sir. Not -- not -- at that time my communications
19 center was calling me on the radio, they were giving me some
20 information by radio, but at that time I had -- my focus was
21 on Dylann with the situation of the car.

5:06:44PM22 Q. So did you -- had Officer Bernat told you that he
23 confirmed his identification or that he --

5:06:51PM24 A. No, sir.

5:06:52PM25 Q. So when you get to the back of the car, what happens

MICHAEL MYERS - DIRECT EXAMINATION

1 there?

5:06:56PM 2 A. Officer Hamrick's actually doing another search of
3 Mr. Roof. While he's doing that, I actually asked him,
4 Mr. Roof, if he was involved in the shooting incident in
5 Charleston.

5:07:09PM 6 Q. How close were you or far from him were you when you said
7 that?

5:07:12PM 8 A. Two feet.

5:07:13PM 9 Q. And did he respond?

5:07:14PM10 A. He did.

5:07:15PM11 Q. What did he say?

5:07:16PM12 A. He said he was the person involved in the shooting in
13 Charleston.

5:07:22PM14 Q. What happened next?

5:07:24PM15 A. Asked if he had any identification. He did say he had
16 identification in his pocket. He actually told Officer
17 Hamrick where the identification was and Officer Hamrick
18 removed it and handed it to him.

5:07:39PM19 Q. Did you get his I.D. from him?

5:07:41PM20 A. I got it from Officer Hamrick, yes, sir.

5:07:43PM21 Q. It was to the same person, to Dylann Roof?

5:07:45PM22 A. Yes, sir, it was the South Carolina driver's license of
23 Mr. Roof.

5:07:49PM24 Q. And what happened then?

5:07:50PM25 A. And then I -- I advised Officer Hamrick to take him to his

MICHAEL MYERS - DIRECT EXAMINATION

1 vehicle to get him prepared for transport.

5:08:00PM 2 Q. And did you go with him back to that car?

5:08:03PM 3 A. I did. I walked with him, they originally took him back,
4 they actually took him to the patrol car they were going to
5 transport him in, and they began doing a more thorough search
6 of him while we were kind of going back there and they were
7 conducting that one before they put him in the car, I did
8 speak to Mr. Roof.

5:08:24PM 9 Q. What was your purpose in speaking to him at that point?

5:08:26PM10 A. I asked him if there was anything in the vehicle that
11 could harm us or anybody else in the area, if there was any
12 weapons, explosives or any other things that -- in the vehicle
13 that could harm us.

5:08:39PM14 Q. And did he reply to you?

5:08:41PM15 A. He did.

5:08:42PM16 Q. What did he say?

5:08:43PM17 A. He said immediately, once I got -- asked that question,
18 his response to me was -- is, there's a gun in the vehicle.

5:08:50PM19 Q. Did he say where?

5:08:52PM20 A. When I responded to him and said, a gun in the vehicle?
21 He said the gun's in the vehicle under a pillow in the back
22 seat.

5:08:59PM23 Q. And once you had that information, what did you do?

5:09:03PM24 A. There was actually officer started searching the vehicle,
25 going through --

MICHAEL MYERS - DIRECT EXAMINATION

5:09:08PM 1 Q. Who searched the vehicle?

5:09:09PM 2 A. It wasn't a really thorough search, they were actually
3 still clearing to make sure everything was good, and that was
4 Officer Bernat and Officer Scott Ledford, they had opened up
5 the trunk area of the vehicle and the -- at some point opened
6 the right rear door.

5:09:24PM 7 Q. And what happened then?

5:09:25PM 8 A. They then ceased, because I remember Officer Ledford
9 looking inside the vehicle, I then told him that we needed to
10 secure the vehicle and to secure the area for -- till we could
11 find out about processing the vehicle.

5:09:43PM12 Q. So you identified -- you all saw the gun there, then you
13 ordered it to go no further?

5:09:50PM14 A. Apparently Officer Bernat and Officer Ledford I think
15 actually seen it. I wasn't that close to the vehicle to
16 actually see it.

5:09:57PM17 Q. And what was the next thing you did, if anything?

5:10:02PM18 A. Once we done that, we actually -- I ordered or asked
19 Officer Hamrick to transport Mr. Roof to our office, to what
20 we call our library area of our police department.

5:10:15PM21 Q. And would he have been the one that then took him to the
22 police station?

5:10:19PM23 A. That is correct.

5:10:19PM24 Q. And that was Officer Hamrick?

5:10:22PM25 A. That is Officer Scott Hamrick.

MICHAEL MYERS - DIRECT EXAMINATION

5:10:23PM 1 MR. WILLIAMS: I'm going to play now Government's
2 106.

5:10:37PM 3 (Video played.)

5:11:15PM 4 Q. Can you explain who the three different vehicles belong to
5 in terms of law enforcement officers?

5:11:21PM 6 A. Yes, sir, the vehicle directly behind right now the
7 transfer truck to the left, that's Officer Bernat and Joe
8 Buriss' vehicle. The vehicle to the right on the right
9 shoulder of the roadway is Officer Scott Hamrick's vehicle.
10 The media was showing from my vehicle.

5:11:39PM11 Q. That's Bernat, Hamrick, then your car with the video?

5:11:45PM12 A. That's correct, sir.

5:11:46PM13 MR. WILLIAMS: Go ahead.

5:11:47PM14 (Video was played.)

5:15:28PM15 Q. So the individual who's at the back of the car there, who
16 is that?

5:15:31PM17 A. That's Officer Scott Hamrick.

5:15:35PM18 Q. You said that he was then -- the defendant was then
19 transported to the police station?

5:15:41PM20 A. That is correct, sir.

5:15:42PM21 Q. Who did that transport?

5:15:43PM22 A. Officer Scott Hamrick.

5:15:45PM23 Q. Was he the only one involved in that transport?

5:15:48PM24 A. Yes, sir.

5:15:49PM25 Q. And who would have met the defendant back at the police

MICHAEL MYERS - DIRECT EXAMINATION

1 station?

5:15:56PM 2 A. I had made a call to our sergeant of our criminal
3 investigation division, Detective Benfield, and requested that
4 they have someone to meet him at our police department there
5 in our library.

5:16:10PM 6 Q. So Hamrick was to transport him back to detectives at the
7 police station?

5:16:17PM 8 A. That is correct, sir.

5:16:18PM 9 Q. What was the rest of your responsibilities that day or the
10 rest of that afternoon?

5:16:28PM11 A. Once I -- Officer Hamrick had started the transport of him
12 back to the police department, I had a communication center
13 make contact with the command post set up here in Charleston,
14 so I could relay the information that we had Mr. Roof in
15 custody.

5:16:46PM16 Q. And did investigators or agents from the Charleston case
17 then respond later that day to Shelby?

5:16:53PM18 A. Yes, sir, they did.

5:16:58PM19 MR. WILLIAMS: No further questions, thank you.

5:17:00PM20 THE COURT: Cross-examination.

5:17:02PM21 MS. STEVENS: Thank you, Your Honor.

CROSS-EXAMINATION

5:17:03PM23 BY MS. STEVENS:

5:17:06PM24 Q. Good evening, Sergeant.

5:17:11PM25 A. Good evening.

MICHAEL MYERS - DIRECT EXAMINATION

5:17:12PM 1 Q. So on June 18th, you officers at the Shelby police
2 department were not expecting the Charleston shooter to come
3 driving through Shelby, correct?

5:17:22PM 4 A. Not specifically, no, ma'am.

5:17:24PM 5 Q. And then at 10:33 a.m. that call came across your radio
6 that perhaps he was heading westbound on Highway 74, right?

5:17:32PM 7 A. Yes.

5:17:33PM 8 Q. And you fell in approximately three cars back in the video
9 that we just saw --

5:17:44PM10 A. Yes.

5:17:38PM11 Q. -- on Government's 106. From that vantage point in
12 Government's 106, we can't very clearly see the back of the
13 trunk, but did you walk up there and were you present in the
14 area when Dylann Roof was first taken from the car?

5:17:57PM15 A. I was within close proximity, not exactly where the
16 vehicle was, I was more where Officer Hamrick's vehicle was.

5:18:03PM17 Q. Okay. And did you see the various officers that were
18 close to the car, the black Hyundai?

5:18:09PM19 A. The whole time, yes, ma'am.

5:18:11PM20 Q. All right. And some of them initially drew their weapons?

5:18:14PM21 A. Yeah, we all did.

5:18:16PM22 Q. When the car was first pulled over?

5:18:18PM23 A. Yes, ma'am.

5:18:19PM24 Q. Because you didn't know what to expect.

5:18:20PM25 A. Yes.

MICHAEL MYERS - DIRECT EXAMINATION

5:18:21PM 1 Q. And when the first officer, Officer Bernat, approached the
2 car, how did it get communicated backward that you all could
3 put your weapons away?

5:18:32PM 4 A. That kind of transpired automatically. Nobody made a call
5 or command, it was because based on the situation that we were
6 dealing with, he was compliant with what Officer Buriss was
7 telling him to do. Once Officer Buriss reached the passenger
8 side, there was always one that had a weapon out until the
9 point that Officer Bernat actually put his hands on Mr. Roof.

5:18:54PM10 Q. Okay. And so Officer Bernat was at the driver's side and
11 Officer Buriss was on the passenger side of the black Hyundai?

5:19:02PM12 A. Yes.

5:19:02PM13 Q. And Officer Bernat noticed that Dylann Roof had his hands
14 on the steering wheel at ten and two, correct?

5:19:09PM15 A. Yes.

5:19:10PM16 Q. And he had a GPS machine sitting in his lap?

5:19:13PM17 A. I'm not sure about that. I didn't see that part.

5:19:16PM18 Q. Okay. How was Dylann Roof taken from the vehicle? Did he
19 voluntarily get out of the car on his own accord or was he
20 taken physically from the car?

5:19:25PM21 A. He got out on his own.

5:19:28PM22 Q. So he followed a command, he stepped out of the car and
23 then stood beside the car?

5:19:32PM24 A. Yes.

5:19:33PM25 Q. And was that what you meant when you said that he was

MICHAEL MYERS - DIRECT EXAMINATION

1 compliant there and you all saw that you could put your
2 weapons away?

5:19:40PM 3 A. Yes, ma'am.

5:19:40PM 4 Q. Okay. And was -- who all was there in the vicinity of the
5 back end of the car? We've talked about Officer Ber --

5:19:49PM 6 A. Officer Bernat, Officer Buriss, myself, Officer Hamrick,
7 and then Scott Ledford comes up, kind of stays back off there
8 at a little distance.

5:20:04PM 9 Q. And those various officers would all be visible in
10 Government's Exhibit 105, the video that more closely shows
11 the back area of the black Hyundai?

5:20:13PM12 A. Yes.

5:20:14PM13 Q. Okay. And when Officer Buriss came walking back toward
14 you, do you recall him making any statements about Dylann
15 Roof?

5:20:23PM16 MR. WILLIAMS: Object to any hearsay, Your Honor.

5:20:26PM17 THE COURT: Well, what's the purpose?

5:20:30PM18 MS. STEVENS: It's an excited utterance, Your Honor.

5:20:32PM19 Q. The officers were there at the back of the car making an
20 arrest, correct?

5:20:38PM21 A. Yes.

5:20:38PM22 Q. Okay. And do you recall a specific statement made in the
23 heat of that moment --

5:20:43PM24 MR. WILLIAMS: Renew the objection, Your Honor.

MICHAEL MYERS - DIRECT EXAMINATION

5:20:46PM 1 Q. -- by Officer Buriss?

5:20:48PM 2 THE COURT: Let's hold on just a second. Do you have
3 any other theories other than excited utterance?

5:20:54PM 4 MS. STEVENS: No, Your Honor, it's a hearsay
5 exception. It's also not for the truth of the matter
6 asserted.

5:21:01PM 7 THE COURT: Now we're sort of where I'm driving at.
8 Just for the purpose of the information he then had.

5:21:06PM 9 MS. STEVENS: Just for that purpose.

5:21:07PM10 THE COURT: Overruled.

5:21:08PM11 MS. STEVENS: What his observation was at that
12 moment.

5:21:10PM13 THE COURT: Overruled.

5:21:11PM14 A. Can you define which moment you're trying to --

5:21:15PM15 BY MS. STEVENS:

5:21:15PM16 Q. Do you recall him, as you all were putting your weapons
17 away, making a statement about the demeanor of Dylann Roof?

5:21:25PM18 A. Officer Buriss. Yes. Officer Burris made a comment, I'm
19 trying to remember exactly, I think -- it may have been a
20 comment that he was a kid.

5:21:41PM21 Q. Okay. And at that point you all put your weapons away.

5:21:44PM22 A. No, ma'am, we had already put our weapons away before
23 then.

5:21:48PM24 Q. Okay. Thank you, Sergeant Myers. And then toward the
25 back of the black Hyundai you personally had the opportunity

MICHAEL MYERS - DIRECT EXAMINATION

1 to speak with Dylann Roof?

5:21:56PM 2 A. I did.

5:21:57PM 3 Q. And you described getting to within two or three feet of
4 him while you were talking?

5:22:02PM 5 A. At the back of the car when they first brought around from
6 Officer Bernat, I was probably even closer at that point at
7 points.

5:22:09PM 8 Q. And in your observation was he intoxicated or did he
9 appear under the influence of anything?

5:22:14PM10 A. Not that I'm aware of, no.

5:22:16PM11 Q. What was your observation of him there at the two to
12 three feet distance?

5:22:22PM13 A. He didn't have any reaction at all.

5:22:25PM14 Q. Was he speaking quietly or was he speaking loudly and
15 excitedly there?

5:22:30PM16 A. No.

5:22:31PM17 Q. Was he quiet when he spoke to you?

5:22:34PM18 A. I mean, he talked with a normal voice, which -- or what I
19 believed to be a normal voice.

5:22:39PM20 Q. Okay. And you asked him if he was Dylann Roof, right?

5:22:44PM21 A. I first asked him if he was involved in the shooting
22 incident in Charleston.

5:22:47PM23 Q. Yes.

5:22:48PM24 A. But then I did ask him if he had identification on him,
25 which he stated he did in his pocket.

MICHAEL MYERS - DIRECT EXAMINATION

5:22:53PM 1 Q. Okay. And when you first asked him if he was the shooter
2 from Charleston, he told you yes, didn't he?

5:23:00PM 3 A. Yes, ma'am.

5:23:01PM 4 Q. And then you said you found his identification?

5:23:05PM 5 A. No, I didn't find it. Officer Hamrick removed it from his
6 pocket after he said where it was, and Officer Hamrick handed
7 it to him.

5:23:12PM 8 Q. Was there anything else removed from his pocket?

5:23:17PM 9 A. There -- I know his identification, he had identification,
10 and then there was a movie ticket of -- attached to it, or not
11 necessarily attached to it but stuck to it.

5:23:39PM12 Q. Did you hear or did you talk with him about whether --
13 well, I think you mentioned this already -- is there something
14 in the car we need to know about?

5:23:47PM15 A. Yes.

5:23:47PM16 Q. That could involve our safety?

5:23:49PM17 A. Yes.

5:23:49PM18 Q. And what was his answer to that?

5:23:52PM19 A. He told me that there was a gun in the car.

5:23:54PM20 Q. Did he tell you where you would find the gun?

5:23:56PM21 A. Yeah, because when he said the gun was in there, when I
22 asked him, a gun, he said the gun's under a pillow in the back
23 seat.

5:24:06PM24 Q. Did you see the gun?

5:24:07PM25 A. No.

MICHAEL MYERS - DIRECT EXAMINATION

5:24:08PM 1 Q. So you weren't at the back passenger area when that
2 happened.

5:24:10PM 3 A. No, I don't look like that.

5:24:13PM 4 Q. And what were the rest of your duties with regard to
5 Dylann Roof specifically that afternoon or evening?

5:24:21PM 6 A. My responsibility is once he was in the car, actually put
7 him in the car with Officer Hamrick, and I knew that he was on
8 the way to the police department, I had conversations with our
9 chief and several other people in our detective division, and
10 I had no other contact with him at all through that whole
11 process.

5:24:41PM12 Q. We saw in the video as he was escorted to the back car and
13 then searched, that he was wearing pants and they appeared to
14 be pulled up? Do you recall that?

5:24:51PM15 A. No, I can't remember if they were pulled up or -- I did
16 notice that one of them, but I don't know if it was pulled up
17 or if they were just short.

5:24:58PM18 Q. I imagine in June 18th it's hot out? In Shelby in the
19 summer?

5:25:03PM20 A. Yeah, I mean, it was probably a warm day. I don't --

5:25:07PM21 Q. Do you recall, Sergeant Myers, that he had two pair of
22 pants on at the time he was patted down?

5:25:13PM23 A. I never searched him, so I am not sure if he had two pairs
24 on or not.

5:25:17PM25 Q. Yes, sir.

5:25:18PM 1 MS. STEVENS: That's all, Your Honor, thank you.

5:25:21PM 2 THE COURT: Thank you, Sergeant, you may step down.

5:25:26PM 3 Ladies and gentlemen, I think we've reached that time when
4 we're calling it a day is a good idea. I want to remind y'all
5 again, a couple things, that just are very important to go
6 home and this evening. No discussions with others. I'm to
7 blame, y'all blame me, if anyone asks you. No exposure to
8 media, don't watch the news, and no social media. And drive
9 home safely, we'll see you at 9:30 tomorrow morning. Thank
10 you.

5:26:03PM11 (Jury excused.)

5:26:34PM12 THE COURT: Mr. Richardson, do you have a forecast
13 for tomorrow?

5:26:41PM14 MR. RICHARDSON: I can, Your Honor. The morning will
15 finish with the Shelby arrest, there are two additional
16 witnesses.

5:26:48PM17 THE COURT: I was aware there were probably more
18 Shelby, and I was worried about it, Mr. Bruck had asked to
19 meet with his client, I didn't want to keep him late.

5:26:59PM20 MR. RICHARDSON: They're going to be here tonight
21 regardless, Your Honor, if we finished them, they would still
22 be here, so that's not at all an imposition with them. And I
23 need -- one additional witness will be coming down from Shelby
24 tonight, so we were going to have Shelby witnesses tomorrow
25 morning in any event, the better part of the morning. Then

1 following that, I anticipate would be the testimony regarding
2 the confession, Special Agent Stansbury will testify. That is
3 a very long video.

5:27:28PM 4 THE COURT: How long? Are you going to play the
5 entire video?

5:27:32PM 6 MR. RICHARDSON: We will play the entire video, yes,
7 Your Honor.

5:27:34PM 8 THE COURT: How long does that run? I watched it
9 once, but I can't remember how long.

5:27:38PM10 MR. RICHARDSON: It's almost, if you just played it
11 straight through, it's almost two hours. It's not quite two
12 hours. And we're not going to play it straight through, but
13 it's -- you know, it's going to be probably, I would estimate
14 at least three hours in order to introduce that issue, walk
15 through that and fully explain. That's obviously an important
16 piece of the story here.

5:28:00PM17 THE COURT: Obviously, yes. Okay.

5:28:01PM18 MR. RICHARDSON: I think that's probably a good three
19 hours, that probably takes us through lunchtime.

5:28:06PM20 THE COURT: Okay.

5:28:07PM21 MR. RICHARDSON: And then the afternoon, Your Honor,
22 I anticipate we would start off with Brittany Burke again, she
23 processed the vehicle that we've been seeing in these
24 photographs. Depending on how long Miss Burke goes, we would
25 then just fill in the rest of that afternoon, to the extent --

1 I don't know how much time we're going to have, we will look
2 at sort of locations of witnesses to try to bring people in.
3 I anticipate we probably won't get much past Miss Burke
4 tomorrow afternoon. We'll have some additional witnesses that
5 are here staged, if we need to get to them, but it's hard for
6 me to say exactly who they're going to be until we get
7 downstairs and figure out who is in town. We can't bring
8 people in for Friday afternoon and have them stay.

4 9 THE COURT: I just don't want to waste my jury's
10 time.

411 MR. RICHARDSON: We will not do that, Your Honor, I'm
12 just not anticipating who they are. We have several witnesses
13 who are in the Columbia or Charleston area that we can bring
14 in for that purpose, Your Honor.

15 THE COURT: Okay. Any other matters to come before
16 the Court from the Government?

417 MR. RICHARDSON: Nothing from the -- just beg the
18 Court's indulgence, Your Honor.

19 Your Honor, if we could, after we break for the court, if
20 Mr. Bruck and I could meet with one of your staff to discuss
21 the exhibits today, obviously a number of those exhibits
22 included information we think is covered by the Court's order
23 with respect to posting, if we could have that time with
24 counsel to discuss that and ensure we're on the same --

425 THE COURT: My clerks will meet with you and make

1 sure we have that straight. Mr. Bryant will work with you on
2 that.

5:29:47PM 3 MR. RICHARDSON: Thank you. Nothing else from
4 Government, Your Honor.

5:29:49PM 5 THE COURT: Any from the defense?

5:29:50PM 6 MR. BRUCK: Nothing from the defense, Your Honor.

5:29:52PM 7 THE COURT: Very good.

5:29:52PM 8

5:29:53PM 9 (Court adjourned at 5:30 p.m.)

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REPORTER'S CERTIFICATION

I, Debra L. Potocki, RMR, RDR, CRR, Official Court Reporter for the United States District Court for the District of South Carolina, hereby certify that the foregoing is a true and correct transcript of the stenographically recorded above proceedings.

S/Debra L. Potocki

Debra L. Potocki, RMR, RDR, CRR

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